MONTANA LEGISLATIVE HISTORY

Chapter 574 1999

Bill H _____ S 361 Original bill & history ~~✓ c~~

| H. Committee on Agriculture | | | S. Committee on Agriculture | | |
|---|---|---|---|---|---|
| Hearing Date(s) | 3-25 | ✓ c | Hearing Date(s) | 2-5 | ~~✓ c~~ |
| | | c | | 3-12 | ✓ c |
| | | c | | | c |
| | | c | | | c |
| Date Out | | c | | | |

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

## LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

| | | | |
|---|---|---|---|
| 3/29 | Hearing | | |
| 3/29 | Committee Executive Action--Bill Concurred | 12 | 3 |
| 3/29 | Committee Report--Bill Concurred | | |
| 4/08 | 2nd Reading Concurred | 75 | 24 |
| 4/09 | 3rd Reading Concurred | 75 | 22 |
| | Returned to Senate | | |
| 4/09 | Sent to Enrolling | | |
| 4/13 | Returned from Enrolling | | |
| 4/15 | Signed by President | | |
| 4/16 | Signed by Speaker | | |
| 4/16 | Transmitted to Governor | | |
| 4/21 | Signed by Governor | | |
| 4/22 | Chapter Number Assigned | | |
| | Chapter Number 412 | | |
| | Effective Date: 4/21/1999 - All Sections | | |

**SB 360** Introduced by Franklin, et al. *LC1086 Drafter: Higgins*

Require That Public Utilities Providing Gas or Electric Service and Gas or Electric Transmission or Distribution Services Providers Functionally Separate the Supply, Transmission, and Distribution of Electric Energy and Natural Gas from Appliance Merchandising and Servicing

| | | | |
|---|---|---|---|
| 2/01 | Introduced and 1st Reading | | |
| 2/01 | Referred to Natural Resources | | |
| 2/06 | Rereferred to Business and Industry | | |
| 2/16 | Hearing | | |
| 2/19 | Tabled in Committee | | |
| 3/01 | Missed Deadline for General Bill Transmittal | | |

**SB 361** Introduced by Mesaros, et al. *LC0942 Drafter: Sternberg*

Revise Definitions and Terminology Related to Game Farms and Game Farm Animals to Mean Alternative Livestock Ranches and Alternative Livestock;...

| | | | |
|---|---|---|---|
| 2/01 | Introduced and 1st Reading | | |
| 2/01 | Referred to Agriculture, Livestock and Irrigation | | |
| 2/01 | Fiscal Note Requested | | |
| 2/05 | Fiscal Note Received | | |
| 2/05 | Fiscal Note Printed | | |
| 2/05 | Hearing | | |
| 2/13 | Revised Fiscal Note Requested | | |
| 2/19 | Revised Fiscal Note Received | | |
| 2/19 | Revised Fiscal Note Signed | | |
| 2/20 | Revised Fiscal Note Printed | | |
| 3/13 | Revised Fiscal Note Requested | | |
| 3/17 | Revised Fiscal Note Received | | |
| 3/17 | Revised Fiscal Note Signed | | |
| 3/17 | Revised Fiscal Note Printed | | |
| 3/19 | Committee Executive Action--Bill Passed as Amended | 8 | 2 |
| 3/19 | Committee Report--Bill Passed as Amended | | |
| 3/22 | 2nd Reading Passed | 25 | 24 |
| 3/23 | 3rd Reading Passed | 26 | 24 |
| | Transmitted to House | | |
| 3/24 | Referred to Agriculture | | |
| 3/25 | Hearing | | |

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|---|---|---|---|
| 3/26 | Committee Executive Action--Bill Concurred as Amended | 16 | 4 |
| 3/26 | Committee Report--Bill Concurred as Amended | | |
| 3/31 | 2nd Reading Concurred | 56 | 43 |
| 4/01 | 3rd Reading Concurred | 56 | 43 |
| | Returned to Senate with Amendments | | |
| 4/08 | 2nd Reading House Amendments Concurred | 50 | 0 |
| 4/09 | 3rd Reading Passed as Amended by House | 34 | 16 |
| 4/12 | Sent to Enrolling | | |
| 4/13 | Returned from Enrolling | | |
| 4/13 | Signed by President | | |
| 4/13 | Signed by Speaker | | |
| 4/13 | Transmitted to Governor | | |
| 4/15 | Returned to Senate with Governor's Proposed Amendments | | |
| 4/16 | 2nd Reading Governor's Proposed Amendments Concurred | 50 | 0 |
| 4/17 | 3rd Reading Governor's Proposed Amendments Concurred | 45 | 4 |
| | Transmitted to House | | |
| 4/20 | 2nd Reading Governor's Proposed Amendments Concurred | 79 | 20 |
| 4/21 | 3rd Reading Governor's Proposed Amendments Concurred | 65 | 34 |
| 4/21 | Returned to Senate Concurred in Governor's Proposed Amendments | | |
| 4/21 | Sent to Enrolling | | |
| 4/26 | Returned from Enrolling | | |
| 4/26 | Signed by President | | |
| 4/29 | Signed by Speaker | | |
| 4/30 | Transmitted to Governor | | |
| 5/05 | Signed by Governor | | |
| 5/07 | Chapter Number Assigned | | |
| | Chapter Number 574 | | |
| | Effective Date: 7/01/1999 - Sections 29(1), 29(2), 29(3) and 31 | | |
| | Effective Date: 10/01/1999 - Sections 1-28, 29(4) and 30 | | |

SB 362 Introduced by Keating *LC1653 Drafter: Mitchell*

Authorize the Use of a Surety Bond in Addition to the Other Methods of Guarantee to Ensure the Proper Closure of Oil and Gas Wells;...

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|---|---|---|---|
| 2/01 | Introduced and 1st Reading | | |
| 2/01 | Referred to Natural Resources | | |
| 2/08 | Hearing | | |
| 2/15 | Committee Executive Action--Bill Passed | 11 | 0 |
| 2/15 | Committee Report--Bill Passed | | |
| 2/17 | 2nd Reading Passed | 50 | 0 |
| 2/18 | 3rd Reading Passed | 48 | 0 |
| | Transmitted to House | | |
| 2/20 | Referred to Natural Resources | | |
| 3/22 | Hearing | | |
| 3/23 | Committee Executive Action--Bill Concurred | 20 | 0 |
| 3/24 | Committee Report--Bill Concurred | | |
| 3/27 | 2nd Reading Concurred | 98 | 0 |
| 3/29 | 3rd Reading Concurred | 96 | 2 |
| | Returned to Senate | | |
| 3/30 | Sent to Enrolling | | |
| 3/30 | Returned from Enrolling | | |

INTRODUCED BY _____ BILL NO. 361
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING CERTAIN REGULATORY AUTHORITY OVER GAME FARMS FROM THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO THE DEPARTMENT OF LIVESTOCK; REVISING DEFINITIONS AND TERMINOLOGY RELATED TO GAME FARMS AND GAME FARM ANIMALS TO MEAN ALTERNATIVE LIVESTOCK RANCHES AND ALTERNATIVE LIVESTOCK; INCREASING ANNUAL LICENSE RENEWAL FEES; REVISING LICENSING REQUIREMENTS, REQUIREMENTS FOR REMOVAL OF GAME ANIMALS FROM ALTERNATIVE LIVESTOCK RANCHES, INSPECTION REQUIREMENTS, PENALTIES, RULEMAKING REQUIREMENTS, AND PROVISIONS REGARDING INGRESS AND EGRESS; RENAMING THE GAME FARM ADVISORY COUNCIL AS THE ALTERNATIVE LIVESTOCK ADVISORY COUNCIL AND REVISING COUNCIL DUTIES WITH REGARD TO REVIEW OF LICENSE APPLICATIONS; REQUIRING ADOPTION OF A PROGRAMMATIC REVIEW PROCESS TO ASSESS ENVIRONMENTAL IMPACTS ASSOCIATED WITH A NEW ALTERNATIVE LIVESTOCK RANCH; PROVIDING CONTINGENT VOIDNESS PROVISIONS; AMENDING SECTIONS 81-1-102, 81-2-102, 81-2-702, 81-3-102, 81-9-217, 87-4-406, 87-4-407, 87-4-408, 87-4-409, 87-4-410, 87-4-411, 87-4-412, 87-4-413, 87-4-414, 87-4-415, 87-4-416, 87-4-417, 87-4-418, 87-4-420, 87-4-422, 87-4-423, 87-4-424, 87-4-426, 87-4-427, 87-4-428, AND 87-4-432, MCA; AND REPEALING SECTION 87-4-419, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Purpose.** The legislature recognizes that the production of alternative livestock provides a viable economic opportunity for any private property owner as well as the traditional livestock producers who are interested in diversifying their ranch productivity. Transferral of oversight obligations from the department of fish, wildlife, and parks to the department of livestock will better use state resources while promoting and fostering the economic development of the alternative livestock industry.

**Section 2.** Section 81-1-102, MCA, is amended to read:

"**81-1-102. Duties and powers of department -- fees based on costs.** (1) The department shall

exercise general supervision over and, so far as possible, protect the livestock interests of the state from theft and disease and recommend legislation ~~which~~ that, in the judgment of the department, fosters this industry. The department may compel the attendance of witnesses, employ counsel to assist in the prosecution of violations of laws made for the protection of ~~the~~ livestock interests, and assist in the prosecution of persons charged with illegal branding or theft of livestock or any other crime under the laws of this state for the protection of stock owners. It may adopt rules governing the recording and use of livestock brands.

(2) The department shall by rule establish all fees that it is authorized to charge, commensurate with costs as provided in 37-1-134.

(3) The department shall perform the duties assigned to the department relating to the administration and regulation of ~~game farms as described in Title 87, chapter 4, part 4~~ alternative livestock ranches."

**Section 3.** Section 81-2-102, MCA, is amended to read:

"**81-2-102. Powers of department.** (1) The department may:

(a) supervise the sanitary conditions of livestock in this state, under the provisions of the constitution and statutes of this state and the rules adopted by the department. The department may quarantine a lot, yard, land, building, room, premises, enclosure, or other place or section in this state ~~which~~ that is or may be used or occupied by livestock and ~~which~~ that in the judgment of the department is infected or contaminated with an infectious, contagious, communicable, or dangerous disease or disease-carrying medium by which the disease may be communicated. The department may quarantine livestock in this state when the livestock is affected with or has been exposed to disease or disease-carrying medium. The department may prescribe treatments and enforce sanitary rules ~~which~~ that are necessary and proper to circumscribe, extirpate, control, or prevent the disease.

(b) foster, promote, and protect the livestock industry in this state by the investigation of diseases and other subjects related to ways and means of prevention, extirpation, and control of diseases or to the care of livestock and its products and to this end may establish and maintain a laboratory, may make or cause to be made biologic products, curatives, and preventative agents, and may perform any other acts and things as may be necessary or proper in the fostering, promotion, or protection of the livestock industry in this state;

(c) impose and collect ~~such~~ fees ~~as~~ that the department considers appropriate for the tests and services performed by it at the laboratory or elsewhere and for biologic products, curatives, and preventative agents made or caused to be made by the department. In fixing these fees, the department shall take into consideration the costs, both direct and indirect, of the tests, services, products, curatives, and agents. All fees ~~shall~~ must be deposited in the state special revenue fund for the use of the animal health functions of the department.

(d) adopt rules and orders ~~which~~ that it considers necessary or proper to prevent the introduction or spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock and alternative livestock in this state and to this end may adopt rules and orders necessary or proper governing inspections and tests of livestock and alternative livestock intended for importation into this state before it may be imported into this state;

(e) adopt rules and orders ~~which~~ that it considers necessary or proper for the inspection, testing, and quarantine of all livestock and alternative livestock imported into this state;

(f) adopt rules and orders ~~which~~ that it considers necessary or proper for the supervision, inspection, and control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and meat food products, dairies, milk depots, milk and its byproducts, barns, dairy cows, factories, and other places and premises where meat or meat foods, milk or its products, or any byproducts thereof intended for sale or consumption as food are produced, kept, handled, or stored. An authorized representative of the department may take samples of a product so produced, kept, handled, or stored for analysis or testing by the department. The records of the samples and their analysis and test, when identified as to the sample by the oath of the officer taking it and verified as to the analysis or test by the oath of the chemist or bacteriologist making it, are prima facie evidence of the facts set forth in them when offered in evidence in a prosecution or action at law or in equity for violation of ~~part 1, 2, or 3 of this chapter,~~ 81-9-201, 81-20-101, 81-21-102, 81-21-103, part 1, 2, or 3 of this chapter, or a rule or order of the board adopted thereunder. These standards, insofar as they relate to dairies or milk and its byproducts, may not include standards of weight or measurement.

(g) adopt rules and orders ~~which~~ that seem necessary or proper for the supervision and control of manufactured and refined foods for livestock and the manufacture, importation, sale, and method of using a biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as practicable, the standards approved by the United States department of agriculture ~~shall~~ must be adopted.

(h) install an adequate system of meat inspection in accordance with 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 ~~which shall~~ that must provide ways and means for shipping home-grown and home-killed meats into any city in this state. As far as practicable, the rules ~~shall~~ must conform with the meat-inspection requirements of the United States department of agriculture.

(i) slaughter or cause to be slaughtered any livestock in this state known to be affected with or ~~which~~ that has been exposed to an infectious, contagious, communicable, or dangerous disease, when ~~such~~ the slaughter is necessary for the protection of other livestock, and destroy or cause to be destroyed all barns, stables, sheds, outbuildings, fixtures, furniture, or personal property infected with any ~~such~~ infectious, contagious, communicable, or dangerous disease when they cannot be thoroughly cleaned and disinfected and the destruction is necessary to prevent the spreading of the disease;

(j) indemnify the owner of any property destroyed by order of the department or pursuant to any rules adopted by the department under ~~part 1, 2, or 3 of this chapter,~~ 81-20-101, 81-21-102, 81-21-103, or part 1, 2, or 3 of this chapter;

(k) require persons, firms, and corporations engaged in the production or handling of meat, meat food products, dairy products, or any byproducts thereof to furnish statistics of the quantity and cost of the food and food products produced or handled and the name and address of persons supplying them any of the products.

(2) When in the exercise of its powers or the discharge of its duties it becomes necessary for employees of the department to investigate facts and conditions, they may administer oaths, take affidavits, and compel the attendance and testimony of witnesses."

**Section 4.** Section 81-2-702, MCA, is amended to read:

"**81-2-702. Definitions.** As used in this part, the following definitions apply:

(1) "Animals" means livestock, dogs, cats, rabbits, rodents, game animals, ~~game farm animals,~~ fur-bearing and wild animals, and poultry and other birds.

(2) "Biologics" means medicinal preparations made from living organisms and their products. The term includes but is not limited to serums, vaccines, antigens, and antitoxins.

(3) "Department" means the department of livestock.

(4) "Health certificate" means a legible record written on an official health certificate form of the state of origin or on an equivalent form of the U.S. department of agriculture attesting that the animals,

animal semen, or animal biologics described on the certificate have been visually inspected by a federally accredited veterinarian and found to meet the entry requirements of the state of Montana.

(5) "Livestock" means cattle, horses, mules, asses, sheep, llamas, alpacas, bison, swine, ostriches, rheas, emus, ~~and~~ goats, and alternative livestock as defined in 87-4-406.

(6) "Permit" means an official document issued by the department after proper application that allows the movement of animals, animal semen, or animal biologics into Montana.

(7) "Poultry" means domesticated birds, including but not limited to chickens, turkeys, ducks, geese, guinea fowl, pigeons, and pheasants."

**Section 5.** Section 81-3-102, MCA, is amended to read:

"**81-3-102. Recording of brands required -- ~~game farm animals~~ alternative livestock to be marked** -- limit. (1) It is unlawful for a person to artificially brand, mark, or cause to be artificially branded or marked any domestic animal or livestock running at large on the public domain or open range or that may run or stray at large ~~or~~ on the public domain or open range, unless the artificial brand or mark has been recorded or rerecorded with the department in the name of the person within the period of 10 years immediately preceding the branding or marking.

(2) ~~Game farm animals~~ Alternative livestock, as defined in 87-4-406, ~~exclusive of carnivores and omnivores,~~ must be identified by use of a recorded whole herd mark or brand in compliance with the requirements of Title 87, chapter 4, and this chapter.

(3) No more than five brands may be recorded or rerecorded by one person."

**Section 6.** Section 81-9-217, MCA, is amended to read:

"**81-9-217. Definitions.** As used in 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236, the following definitions apply:

(1) "Adulterated" means the term applied to meat if:

(a) it bears or contains a poisonous or deleterious substance that may render it injurious to health, except that if the substance is not an added substance, the product may not be considered adulterated if the quantity of the substance is insufficient to ordinarily render it injurious to health;

(b) it bears or contains, by reason of administration of any substance to the meat, an added poisonous or added deleterious substance other than a color additive, a food additive, or a pesticide

chemical in or on a raw agricultural commodity, any of which may in the board's judgment make the meat unfit for human food;

(c) it is in whole or in part a raw agricultural commodity and bears or contains a pesticide chemical that is unsafe as provided in the Federal Food, Drug and Cosmetic Act;

(d) it bears or contains a food additive that is unsafe as provided in the Federal Food, Drug and Cosmetic Act;

(e) it bears or contains a color additive that is unsafe as provided in the Federal Food, Drug and Cosmetic Act; ~~provided that~~ however, the meat that is not otherwise considered adulterated under subsection (1)(c), (1)(d), or (1)(e) ~~of this section~~ is considered adulterated if use of the pesticide chemical, food additive, or color additive in or on the article is prohibited by rule of the board;

(f) it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(g) it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or rendered injurious to health;

(h) it is in whole or in part the product of an animal, including poultry, that has died otherwise than by slaughter;

(i) its container is composed in whole or in part of any poisonous or deleterious substance that may render the contents injurious to health;

(j) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to 21 U.S.C. 348; or

(k) any valuable constituent has been in whole or in part omitted or abstracted ~~therefrom~~ from the meat, any substance has been substituted wholly or in part ~~therefor~~ for meat, damage or inferiority has been concealed in any manner, or any substance has been added to it or mixed or packed with it so as to increase its bulk or weight, or make it appear better or of greater value than it is.

(2) "Chief" means the chief meat inspector appointed as provided in 81-9-226.

(3) "Federal Food, Drug and Cosmetic Act" means 21 U.S.C. 301 through 392, as that law ~~reads~~ read on October 1, 1987.

(4) "Livestock" means cattle, buffalo, sheep, swine, goats, rabbits, horses, mules or other equines, and ~~game farm animals~~ alternative livestock, as defined in 87-4-406, whether alive or dead.

(5) "Livestock product" or "poultry product" means a product capable of use as human food that

is wholly or partially made from meat and is not specifically exempted by rule of the board.

(6) "Meat" means the edible flesh of livestock or poultry and includes livestock and poultry products.

(7) "Misbranded" means the term applied to meat:

(a) if its labeling is false or misleading in any particular;

(b) if it is offered for sale under the name of another food;

(c) if it is an imitation of a meat product, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food being imitated;

(d) if its container is so made, formed, or filled as to be misleading;

(e) if it does not bear a label showing:

(i) the name and place of business of the manufacturer, packer, or distributor; and

(ii) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count. The board may adopt rules exempting small meat packages, meat not in containers, and other reasonable variations.

(f) if any word, statement, or other information required by 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 to appear on the label is not prominently placed ~~thereon~~ on the label, as compared with other words, statements, designs, or devices in the labeling, and is not stated in terms that render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) if it is represented as a food for which a definition and standard of identity or composition has been prescribed by the rules of the board, unless:

(i) it conforms to the definition and standard; and

(ii) its label bears the name of the food specified in the definition and standard and, ~~insofar as~~ if required by the rules, the common names of optional ingredients present in ~~such~~ the food, other than spices, flavoring, and coloring;

(h) if it is represented as a food for which a standard of fill of container has been prescribed by rules of the board and it falls below the standard of fill of container applicable ~~thereto~~ to the food, unless its label bears, in the manner and form ~~as~~ that the rules specify, a statement that it falls below the standard;

(i) if it is not subject to the provisions of subsection (7)(g), unless its label bears:

(i) the common or usual name of the food, if any; and

(ii) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that spices, flavorings, and colorings may, when authorized by the board, be designated as spices, flavorings, and colorings without naming each. To the extent that compliance with the requirements of this subsection (7)(i)(ii) is impracticable or results in deception or unfair competition, exemptions must be established by rules promulgated by the board.

(j) if it purports to be for special dietary uses, unless its label bears ~~such~~ information concerning its vitamin, mineral, and other dietary properties as the board, after consultation with the U.S. secretary of agriculture, by rule prescribes as necessary in order to fully inform purchasers as to its value for ~~such~~ those uses;

(k) if it bears or contains an artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact, provided that to the extent that compliance with the requirements of this subsection (7)(k) is impracticable, exemptions must be established by rules promulgated by the board; or

(l) if it fails to bear directly ~~thereon~~ on the meat and on its containers, as the board may by rule prescribe, the official inspection legend and establishment number of the establishment where the product was prepared and other information ~~as~~ that the board may require to ~~assure~~ ensure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the meat in a wholesome condition.

(8) "Official establishment" means an establishment licensed by the board at which inspection of the slaughter of livestock or poultry or the preparation of meat food products is maintained under 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236.

(9) "Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" have the same meanings as provided in 21 U.S.C. 321.

(10) "Poultry" means any domesticated bird, whether alive or dead.

(11) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed."

Section 7. Section 87-4-406, MCA, is amended to read:

"**87-4-406. Definitions.** As used in this part, the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under this part.

(3) "Board" means the board of livestock provided for in 2-15-3102.

(4) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families suidae, camelidae, or hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

~~(2)~~(5) "Department" means the department of ~~fish, wildlife, and parks~~ livestock.

~~(3)~~(6) "Facilities" means perimeter fences and other enclosures that provide for the confinement, handling, and quarantine of ~~game farm animals~~ alternative livestock.

~~(4)~~(7) "Game animals" means game animals, as defined in 87-2-101, that are not the lawful property of any private person.

~~(5) "Game farm" means the enclosed land area upon which game farm animals may be kept for purposes of obtaining, rearing in captivity, keeping, or selling game farm animals or parts of game farm animals, as authorized under this part.~~

~~(6) "Game farm animal" means a privately owned caribou, black bear, mountain lion, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department.~~

~~(7)~~(8) "Person" means an individual, firm, corporation, association, or partnership."

**Section 8.** Section 87-4-407, MCA, is amended to read:

"**87-4-407. License required -- penalty -- seizure of illegally possessed animals.** (1) A person may not operate ~~a game farm~~ an alternative livestock ranch in this state without first obtaining ~~a game farm~~ an alternative livestock ranch license from the department.

(2) A person who operates ~~a game farm~~ an alternative livestock ranch without a license or

possesses, transports, buys, or sells animals whose importation into the state is restricted pursuant to 87-4-424 is guilty of a misdemeanor and is subject to the penalties provided in 87-4-427(4).

(3) Any animal held in violation of subsection (2) or otherwise illegally possessed may be immediately seized by the department and is subject to disposal by the department. Costs of seizure may be charged to the person in possession of the animal."

**Section 9.** Section 87-4-408, MCA, is amended to read:

"**87-4-408. Jurisdiction.** (1) The department has ~~primary~~ jurisdiction over ~~game farms~~ alternative livestock ranches with regard to licensing, reports and recordkeeping, exterior fencing, ~~classification of exotic species, removal of game animals under 87-4-410,~~ inspection under 87-4-413, marking, transportation, importation, quarantine, hold orders, interior facilities, health, and enforcement of the functions listed in this subsection.

(2) The department of ~~livestock~~ fish, wildlife, and parks has ~~primary~~ jurisdiction over ~~game farms relating to marking, inspection, transportation, importation, quarantine, hold orders, interior facilities, and health and relating to~~ alternative livestock ranches with regard to the removal of game animals under 87-4-410, unlawful capture under 87-4-418, classification of certain species pursuant to 87-4-424, and the enforcement of the functions listed in this subsection."

**Section 10.** Section 87-4-409, MCA, is amended to read:

"**87-4-409. Application for license -- limitations on issuance.** (1) A person desiring to obtain ~~a game farm~~ an alternative livestock ranch license shall make written application to the department on forms provided by the department. The application ~~shall~~ must specify:

(a) the applicant's name;

(b) the applicant's address;

(c) the name and address of the individual who will be the principal manager of the ~~game farm~~ alternative livestock ranch;

(d) the exact legal description of the land upon which the ~~game farm~~ alternative livestock ranch is to be located, including the number of acres composing the alternative livestock ranch, together with the nature of the applicant's title to the land, whether in fee, under lease, by contract for deed, or otherwise;

(e) the species of ~~game farm animals~~ alternative livestock proposed to be kept or reared on the ~~game farm~~ alternative livestock ranch;

(f) the type of facilities contemplated and the location of perimeter fencing;

(g) the source from which the applicant intends to acquire the ~~game animals~~ alternative livestock;

(h) if the applicant is not a Montana resident, the name and address of a Montana resident designated by the applicant as the applicant's local agent; and

(i) if the applicant is a corporation, the full names and addresses of all stockholders owning more than 10% of the stock in the corporation~~; and~~

~~(j) information demonstrating that the applicant is responsible~~.

(2) Within 30 days of receipt of an application, the department shall notify the applicant in writing whether the application:

(a) is in compliance and is accepted as complete; or

(b) is not in compliance and shall list any deficiencies that must be corrected before the application is in compliance. The department shall return any noncomplying application to the applicant, who may resubmit the application upon correction of the deficiencies.

(3) Within 120 days of the acceptance of a complete application, the department shall notify the applicant of its proposed decision to approve, approve with stipulations, or deny the application. If the department determines that the preparation of an environmental impact statement is required by Title 75, chapter 1, and by department rules adopted pursuant to the Montana Environmental Policy Act, then the department has an additional 180 days to act on the completed application. If required fencing has not been completed, the department shall approve the application subject to completion and approval of the fencing. If the application is denied or approved with stipulations, the department shall specify the reasons for denial or stipulations."

Section 11. Section 87-4-410, MCA, is amended to read:

"87-4-410. **Removal of game animals.** (1) If game animals are present on the land that is to be covered by ~~a game farm~~ an alternative livestock ranch license, the license must be issued but must be conditioned upon the applicant complying with this section.

(2) Before the fence surrounding any land to be covered by ~~a game farm~~ an alternative livestock ranch may be closed, all game animals must ~~to the extent possible~~ be driven from the land by the

applicant, at the applicant's expense ~~and under the observation of a representative of the department~~.

~~(3) If at the time the license is issued all game animals cannot be removed from the licensed land, the applicant and a representative of the department shall decide within 60 days the approximate number of remaining game animals of each indigenous species. This number is the "base number".~~

~~(4)~~ The department ~~may remove the base number of~~ of fish, wildlife, and parks shall verify that all game animals have been removed from the ~~game farm within 120 days from the date the number was determined~~ alternative livestock ranch prior to licensing. If absolute verification is impossible because of site-specific circumstances, the applicant shall immediately notify the department of fish, wildlife, and parks if any game animals are present after the verification process is complete. The department of fish, wildlife, and parks shall remove any remaining game animals as soon as practicable.

~~(5) If the department decides not to remove the game animals or if some game animals were not successfully removed, the public must be granted access to harvest those game animals during a special hunt set for that purpose during the next regularly scheduled hunting season.~~

~~(6) After compliance with this section, any animals from the base number that remain and their progeny belong to the licensee. Under certain circumstances, a licensee may request a waiver from the identification and marking of animals in the base number on a licensed game farm.~~"

**Section 12.** Section 87-4-411, MCA, is amended to read:

"**87-4-411. License and renewal fees -- deposit of fees.** (1) The department shall charge an initial ~~game farm~~ alternative livestock ranch license fee and an annual renewal fee based on the following scale:

(a) ~~a game farm~~ an alternative livestock ranch with 1 to 20 ~~game farm animals~~ alternative livestock, an initial license fee of $200 and an annual renewal fee of ~~$50~~ $100;

(b) ~~a game farm~~ an alternative livestock ranch with 21 to 60 ~~game farm animals~~ alternative livestock, an initial license fee of $300 and an annual renewal fee of ~~$100~~ $200; and

(c) ~~a game farm~~ an alternative livestock ranch with more than 60 ~~game farm animals~~ alternative livestock, an initial license fee of $400 and an annual renewal fee of ~~$200~~ $400.

(2) In addition to the fees assessed under subsection (1), the department shall charge applicants a fee of $4 an acre based on the total number of acres indicated in the application for licensure. In cases of an application for a license modification, the fee applies only if an acreage expansion is proposed.

(3) The department shall charge each alternative livestock ranch an annual fee of $12 for each

animal on the alternative livestock ranch, based on the number contained in the January 1 report required in 87-4-417.

(4) The fees collected pursuant to this section must be deposited in the state special revenue fund for the use of the department for purposes of this part."

**Section 13.** Section 87-4-412, MCA, is amended to read:

"**87-4-412. Term of license -- renewal -- transferability.** (1) ~~A game farm~~ An alternative livestock ranch license expires on January 31 of the year succeeding the year of issuance. Application for renewal must be made before a license expires. The department shall renew the license upon payment of the renewal fee if the licensee has complied with all recording and reporting requirements.

(2) ~~A game farm~~ An alternative livestock ranch license for a specific facility is transferable with the consent of the department. The department's consent must be given if:

(a) the transferee meets the requirements of 87-4-426(1);

(b) the ~~game farm~~ alternative livestock ranch and facilities are in compliance with requirements in place at the time the license was issued;

(c) the ~~game farm~~ alternative livestock ranch is not under quarantine by the department ~~of livestock~~;

(d) ~~game farm animals~~ alternative livestock to be transferred are not prohibited under this part and department rules; and

(e) the transfer is not proposed as a means to evade a requirement imposed on the licensee."

**Section 14.** Section 87-4-413, MCA, is amended to read:

"**87-4-413. Inspection.** (1) Upon receipt of an application for ~~a game farm~~ an alternative livestock ranch license, the department shall inspect the land proposed to be covered by the license.

(2) After issuance of ~~a game farm~~ an alternative livestock ranch license, the department may inspect the ~~game farm~~ alternative livestock ranch or the licensee's ~~game farm~~ alternative livestock ranch books on a scheduled basis or on ~~such other~~ another reasonable basis as may be determined necessary.

(3) Prior to the issuance of a license and on an annual basis, the department and the department of fish, wildlife, and parks shall jointly inspect the exterior fencing of an alternative livestock ranch to ensure fence integrity and game-proof condition."

Section 15. Section 87-4-414, MCA, is amended to read:

"87-4-414. ~~Game farm animals~~ Alternative livestock as private property -- source -- marking. (1) All ~~game farm animals~~ alternative livestock lawfully possessed on a licensed ~~game farm~~ alternative livestock ranch are private property for which the licensee is responsible as provided by law.

(2) The licensee may acquire, breed, grow, keep, pursue, handle, harvest, use, sell, or dispose of the ~~game farm animals~~ alternative livestock and their progeny in any quantity and at any time of year as long as the licensee complies with the requirements of this part.

(3) A licensee shall mark ~~each game farm animal~~ alternative livestock in a manner approved by the department ~~of livestock~~, as required under subsection (4), and that indicates ownership and provides individual identification of animals for inspection, transportation, reporting, and taxation purposes.

(4) The department ~~of livestock~~ is responsible for the control, tracking, and distribution of identification tags used for the marking of ~~game farm animals~~ alternative livestock. The department ~~of livestock~~ shall require that all imported ~~game farm animals~~ alternative livestock are marked within 30 days of importation and that all other ~~game farm animals~~ alternative livestock are marked prior to January 1 of each year. Each ~~game farm animal~~ alternative livestock must be marked with identification that:

(a) is unique to the animal;

(b) is nontransferable;

(c) has an emblem owned and registered by the department ~~of livestock~~ that is embossed on each identification tag; and

(d) allows for the identification of ~~game farm animals~~ alternative livestock from a distance.

(5) Upon the request of a licensee, the department ~~of livestock~~ may grant a temporary waiver as to the time for identification and to the manner of identification if necessary to address a special circumstance.

(6) ~~Game farm animals~~ Alternative livestock must be lawfully acquired by the licensee. ~~A game farm animal~~ Alternative livestock may be kept only on a licensed ~~game farm~~ alternative livestock ranch. A licensee who keeps ~~a game farm animal~~ alternative livestock owned by, leased to, or leased from another person shall comply with all of the requirements of this part as if the animal belonged to the licensee. Records and reports submitted by the licensee pursuant to 87-4-417 must identify any ~~game farm animal~~ alternative livestock kept by the licensee during the reporting period and the name and

address of the owner or lessee.

(7) Except for importation permits and health certificates required under 81-2-703, laws applicable to game animals do not apply to ~~game farm animals~~ alternative livestock raised on a licensed ~~game farm~~ alternative livestock ranch."

Section 16. Section 87-4-415, MCA, is amended to read:

"87-4-415. **Transportation, sale, and disposal of ~~game farm animals~~ alternative livestock** -- quarantine. (1) Prior to selling, transferring, transporting, or disposing of one or more ~~game farm animals~~ alternative livestock, the ~~game farm~~ alternative livestock ranch licensee shall ~~contact the department of livestock to~~ request an inspection of the alternative livestock, which inspection must be completed by a ~~department of livestock designated~~ department-designated agent ~~for all game farm animals, except carnivores and omnivores. In the case of carnivores and omnivores, the game farm licensee shall contact the department to request an inspection by a department official.~~ All dead ~~game farm animals, except carnivores and omnivores,~~ alternative livestock must be reported to the department ~~of livestock~~ within 1 working day of the discovery of the death.

(2) ~~(a)~~ Inspection under subsection (1)~~, except inspection of carnivores and omnivores,~~ must be conducted pursuant to 81-3-203(1) through (3) and must include the number, species, age, sex, and individual identification numbers of ~~game farm animals~~ alternative livestock transported or disposed of.

~~(b) A copy of the certificate of inspection must be provided by the department of livestock to the department within 10 days of the inspection.~~

(3) The department ~~of livestock~~ may quarantine or issue a hold order on any ~~game farm animal~~ alternative livestock pending inspection and health certification. The department shall ~~advise~~ notify the department of ~~livestock~~ fish, wildlife, and parks regarding the importation or transportation of any ~~game farm animal~~ alternative livestock that the department reasonably believes may be infected with a disease specific to wildlife."

Section 17. Section 87-4-416, MCA, is amended to read:

"87-4-416. **Sale of ~~game parts, meats, and byproducts~~ carcass and meat -- regenerative parts excluded.** (1) ~~A game farm~~ An alternative livestock ranch licensee may sell or otherwise dispose of the carcass~~, parts, or byproducts~~ of ~~a~~ properly identified ~~game farm animal~~ alternative livestock taken from

~~a game farm~~ an alternative livestock ranch in accordance with the provisions of 87-4-415. A copy of the certificate of inspection must be attached to the carcass or container. Upon the attaching of the certificate of inspection, the carcass~~, parts, or byproducts~~ of the ~~game farm animal~~ alternative livestock may be transported within the state to the transferee named on the certificate of inspection.

(2) The licensee may sell ~~game farm animals~~ alternative livestock for meat upon compliance with all applicable health laws.

(3) The sale of regenerative parts that may be harvested is specifically excluded from the requirements of this section."

**Section 18.** Section 87-4-417, MCA, is amended to read:

"**87-4-417. Records and reporting -- rules.** (1) Each ~~game farm~~ alternative livestock ranch licensee shall keep and maintain for 3 years accurate written records of all alternative livestock purchases, transfers, sales, births, and deaths ~~of game farm animals~~, on forms provided by the department, showing:

(a) the number of each species of ~~game farm animal~~ alternative livestock purchased by the ~~game farm~~ alternative livestock ranch licensee and from whom purchased;

(b) the number of each species of ~~game farm animal~~ alternative livestock transferred or sold, the date of transfer or sale, and the name and address of the person to whom the transfer or sale was made; and

(c) individual identification of each ~~game farm animal~~ alternative livestock that was purchased, transferred, sold, or born or that died. However, a calf or fawn that dies prior to being marked pursuant to 87-4-414(4) need not be identified.

(2) Unless a different reporting frequency has been established pursuant to subsection (3), within 2 weeks after January 1 and July 1 of each year, the ~~game farm~~ alternative livestock ranch licensee shall file a report with the department, showing the number and species of ~~game farm animals~~ alternative livestock that were on hand as of January 1 and July 1 and the number and species of ~~game farm animals~~ alternative livestock that escaped, that were bought, sold, transferred, recaptured, or born, or that died during the reporting period.

(3) The department may establish by rule the conditions under which the frequency of reporting requirements may be reduced to one report a year or increased to three reports a year. The department may establish by rule the conditions under which a licensee may submit an abbreviated report. In adopting

those rules, the department shall consider the number of animals present on ~~a game farm~~ an alternative livestock ranch, the number of reported transactions during previous reporting periods, a history of accurate recordkeeping, and a historical absence of violations.

(4) The department shall report any unresolved discrepancies in the records of an alternative livestock ranch to the department of fish, wildlife, and parks."

**Section 19.** Section 87-4-418, MCA, is amended to read:

"**87-4-418. Unlawful capture.** ~~No~~ A person may not capture, take, or otherwise acquire any game animal in this state for use on ~~a game farm~~ an alternative livestock ranch ~~except as provided in 87-4-410~~."

**Section 20.** Section 87-4-420, MCA, is amended to read:

"**87-4-420. Taxation.** All ~~game farm animals~~ alternative livestock raised on ~~a game farm~~ an alternative livestock ranch may be assessed as personal property of the owner."

**Section 21.** Section 87-4-422, MCA, is amended to read:

"**87-4-422. Rulemaking.** (1) The department may adopt and enforce rules that are necessary to implement the provisions of this part ~~over which the department has primary jurisdiction and to coordinate regulation of game farms with the department of livestock~~.

(2) ~~The department of livestock may adopt rules addressing the transportation and importation of game farm animals, restrictions on importation, identification, sale of game farm animal parts, quarantine, hold orders, interior facilities, health regulations, and the care and maintenance of game farm animals.~~

~~(3) Rules promulgated pursuant to this part must be adopted in accordance with the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1~~ The department shall by rule establish procedures for notice, issuance, and enforcement of an administrative penalty pursuant to 87-4-427(5)."

**Section 22.** Section 87-4-423, MCA, is amended to read:

"**87-4-423. Revocation of license -- procedure -- disposition of animals.** (1) Proceedings for the revocation of a license or the discipline of a licensee must be based on a determination by the department, after an investigation, that there is good cause and a sufficient factual basis to believe that the licensee

or the principal manager is responsible for one or more of the acts or omissions set out in 87-4-427(1).

(2) The department may initiate revocation or disciplinary proceedings against a licensee by specifying the grounds in writing to the licensee and providing an opportunity for a hearing as provided in 87-4-428.

(3) Upon discovery of a violation of recordkeeping or reporting requirements that is not a material violation or an attempt to deceive, the department shall give notice of the violation to the licensee, with a statement that the violation must be corrected within 30 days of the notice, unless a longer period is approved by the department. Upon failure of the licensee to correct the violation, the department may institute revocation proceedings.

(4) (a) A licensee whose license is revoked shall lawfully dispose of any ~~game farm animal~~ alternative livestock held pursuant to the license. Lawfully acquired and held ~~game farm animals~~ alternative livestock may be disposed of by the licensee within 180 days of the license revocation or within a longer period if specified by the department in the revocation order. After the expiration of this period, the department shall seize and dispose of any ~~game farm animals~~ alternative livestock that have not been lawfully disposed of by the licensee. Any proceeds that remain after deducting the department's expenses revert to the licensee. Any unrecovered costs may be charged to the licensee.

(b) The department, when it is determined to be necessary by the state veterinarian appointed pursuant to 81-1-301, may require that diseased or potentially diseased ~~game farm animals~~ alternative livestock be quarantined or destroyed."

**Section 23.** Section 87-4-424, MCA, is amended to read:

"**87-4-424. Classification -- restrictions on importation of certain species.** (1) In order to properly regulate importation:

(a) the department of fish, wildlife, and parks shall classify cloven-hoofed ungulates that have been determined through scientific investigation to pose a threat to native wildlife or livestock through nonspecific genetic dilution or habitat degradation or competition caused by feral populations of escaped ~~game farm animals~~ alternative livestock and shall notify the department ~~of livestock~~ of any changes in classification as they occur; and

(b) the department ~~of livestock~~ shall classify cloven-hoofed ungulates that have been determined through scientific investigation to pose a threat to native wildlife or livestock through parasites or disease.

(2) The department ~~of livestock~~ shall restrict from importation for purposes of game farming any species or subspecies and their hybrids with native species that have been classified in accordance with subsection (1) as posing a threat to native wildlife or livestock. Importation permitted by the department ~~of livestock~~ must comply with the requirements of Title 81, chapter 2, part 7. ~~Copies of import permits issued by the department of livestock must be shared with the department within 10 calendar days. Other pertinent documentation relating to importation must be shared as it becomes available.~~"

**Section 24.** Section 87-4-426, MCA, is amended to read:

"**87-4-426. Criteria for issuance of license -- fencing and enclosure requirements -- rules.** (1) ~~A game farm~~ An alternative livestock ranch license ~~may~~ must be issued by the department ~~only~~ to an applicant:

(a) who owns or leases the premises on which the operations are to be conducted;

(b) who has not been or whose principal manager has not been convicted of or who has not forfeited bond of $100 or more for more than one violation of the fish and game laws or applicable regulations of any state or the United States within a 5-year period prior to application;

(c) who has not or whose principal manager has not at any time pleaded guilty to or been convicted of a felony, unless civil rights have been restored pursuant to law. A person may not apply for licensure during any time in which a deferred or suspended felony sentence is in effect.

(d) who is or whose principal manager is at least 18 years of age.

(2) ~~A game farm~~ An alternative livestock ranch license must be issued by the department if:

(a) the applicant has properly fenced the perimeter of the land upon which the ~~game farm~~ alternative livestock ranch is to be located with fencing designed and constructed to prevent the escape of the species of ~~game farm animal~~ alternative livestock kept on the ~~game farm~~ alternative livestock ranch and to prevent the entry of the same species of game animal or other native game animal species capable of interbreeding with or contracting diseases or parasites from ~~game farm animals~~ alternative livestock;

(b) the application is for a single location; and

(c) ~~it is demonstrated that the applicant or the applicant's principal manager has the necessary skills to properly care for game farm animals or intends to employ a person who has those necessary skills; and~~

~~(d)~~ the application has not been denied under this section or issued with stipulations under

subsection (3).

(3) An application for ~~a game farm~~ an alternative livestock ranch license may be denied in its entirety or issued with stipulations if necessary to prevent public safety hazards or significant negative impacts to Montana's wildlife resources. Denial of an application or stipulations attached to ~~a game farm~~ an alternative livestock ranch license must be based on one or more of the following potential impacts ascribed to the physical location of the proposed ~~game farm~~ alternative livestock ranch:

(a) substantial loss or destruction of critical seasonal game animal habitat or habitat of federally designated threatened or endangered species under the Endangered Species Act of 1973, 16 U.S.C. 1531, et seq., including but not limited to critical breeding, birthing, rearing, and wintering areas;

(b) blockage or disruption of major traditional seasonal migration corridors or major travel routes;

(c) unacceptable threat of introduction or transmission of serious diseases or parasites to native wildlife populations, as determined by the state veterinarian appointed pursuant to 81-1-301;

(d) unacceptable threat of escape of captive ~~game farm animals~~ alternative livestock and establishment of feral populations that would result in habitat damage or competition with or genetic pollution of native wildlife populations;

(e) the creation of a significant threat to the safety of the general public and surrounding landowners by the shooting of ~~game farm animals~~ alternative livestock.

(4) If the department determines that it will propose, within the time allowed under 87-4-409(3), to deny ~~a game farm~~ an alternative livestock ranch license or issue a license with stipulations, the applicant must be given an opportunity to make changes to the application within 30 days of receipt of the department's written determination in order to mitigate or correct any problems or deficiencies. The department shall reconsider the application with the proposed changes within 30 days of receipt of changes to the application before granting, proposing to deny, or proposing to issue the license with stipulations.

(5) (a) An applicant may request that the ~~commission~~ alternative livestock advisory council review a department proposal to deny ~~a game farm~~ an alternative livestock ranch license or to issue a license with stipulations by petitioning the ~~commission~~ alternative livestock advisory council for review within 10 days of the department's proposed decision. The ~~commission~~ alternative livestock advisory council shall ~~decide whether~~ issue a recommendation to the board to either grant the license, propose to deny the license, or issue the license with stipulations. ~~The commission's decision then becomes the department's~~

~~proposed decision, subject to an opportunity for hearing under 87-4-428.~~

(b) Upon receipt of the alternative livestock advisory council's recommendation pursuant to subsection (5)(a), the board shall decide whether to grant the license, propose to deny the license, or issue the license with stipulations. The board's decision then becomes the department's proposed decision, subject to an opportunity for hearing under 87-4-428.

(6) The department shall by rule establish:

(a) criteria for the classification of amendments to an existing license as major or minor; and

(b) an expeditious amendment process for minor amendments."

**Section 25.** Section 87-4-427, MCA, is amended to read:

"**87-4-427. Revocation of license -- criteria -- penalties.** (1) The department may revoke any ~~game farm~~ alternative livestock ranch license or impose any of the penalties or conditions specified in subsection (3) if the licensee or the principal manager has committed or is responsible for any of the following acts or omissions:

(a) failure to operate ~~a game farm~~ an alternative livestock ranch according to the provisions of this part, rules adopted under this part, or stipulations of the ~~game farm~~ alternative livestock ranch license;

(b) making a materially false statement in the license application;

(c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(d) two convictions or bond forfeitures of $100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the preceding 5 years;

(e) negligent or willful misconduct of the ~~game farm~~ alternative livestock ranch operation, including but not limited to the unauthorized egress and ingress of game animal species or ~~game farm animals~~ alternative livestock that:

(i) threatens public safety;

(ii) significantly endangers native game animal populations or habitat through the establishment of feral populations, genetic pollution, or competition for forage or habitat; or

(iii) substantially increases the risk of transmission of disease to native wildlife and the ~~game farm~~

~~animals~~ alternative livestock of others;

(f) a material and willful falsification of any required ~~game farm~~ alternative livestock ranch records or reports;

(g) the purposeful capture of wild animals within the perimeter fence of ~~a game farm~~ an alternative livestock ranch;

(h) repeated failure to maintain or repair required fences or facilities; or

(i) any other willful conduct or omission that creates a substantial threat to other ~~game farm animals~~ alternative livestock and operators or to native wildlife or habitat.

(2) If misconduct under subsection (1)(e) is negligent, the licensee must be given notice and 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may be grounds for license revocation only if the misconduct is not corrected after the initial notice or if the misconduct is repeated.

(3) If the department finds, after opportunity for a hearing required under 87-4-428, that ~~a game farm~~ an alternative livestock ranch licensee or the principal manager is responsible for any act or omission set out in subsection (1), the department may in its discretion impose any one or more of the following penalties upon the licensee:

(a) revocation of the ~~game farm~~ alternative livestock ranch license for up to 5 years;

(b) imposition of a civil penalty not to exceed $5,000, restoration of any damage to native wildlife, or both;

(c) deferral of the revocation of a license subject to the completion of or adherence to specified conditions; or

(d) reprimand of a licensee.

(4) In addition to the revocation of a license or other penalties allowed by this section, a person who purposely or knowingly violates this part or a rule adopted pursuant to this part is subject to criminal prosecution and a fine of not more than $1,000, imprisonment in the county jail for not more than 1 year, or both. Any violation of 87-3-118 is subject to prosecution and penalties under that section.

(5) In addition to the other penalties allowed by this section, the department may in its discretion and before opportunity for a hearing, as provided in 87-4-428, impose an administrative penalty not to exceed $500 for each day that an alternative livestock ranch operator is in violation of this part or a rule adopted pursuant to this part."

**Section 26.** Section 87-4-428, MCA, is amended to read:

"**87-4-428. Right to administrative hearing.** (1) An applicant must be given notice and an opportunity for a hearing on a proposed denial or issuance with stipulations of ~~a game farm~~ an alternative livestock ranch license pursuant to 87-4-426 before the department may deny a license or grant a license with stipulations.

(2) A licensee must be given notice and an opportunity for a hearing before the department may refuse to renew a license, withhold consent to the transfer of a license, revoke a license, or discipline a licensee.

(3) The notice and an opportunity for a hearing and any judicial appeal must be conducted as provided in Title 2, chapter 4, parts 6 and 7."

**Section 27.** Section 87-4-432, MCA, is amended to read:

"**87-4-432. ~~Game farm~~ Alternative livestock advisory council -- appointment of members -- duties.** (1) There is ~~a game farm~~ an alternative livestock advisory council to advise the department ~~and the department of livestock~~ on the administration of ~~game farms~~ alternative livestock ranches in this state.

(2) The ~~game farm~~ alternative livestock advisory council is composed of five members, appointed by the governor as follows:

(a) one member of the board ~~of livestock~~ or the department ~~of livestock~~;

(b) one member of the fish, wildlife, and parks commission or the department of fish, wildlife, and parks;

(c) one member who is a representative of the ~~game farm~~ alternative livestock industry;

(d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and

(e) one member who is a representative of the sportspersons of Montana.

(3) Members of the ~~game farm~~ alternative livestock advisory council shall serve staggered 2-year terms. A member may serve one additional consecutive 2-year term.

(4) The ~~game farm~~ alternative livestock advisory council is attached to the department ~~and the department of livestock~~ in an advisory capacity only, as defined in 2-15-102. The department ~~and the department of livestock~~ shall provide staff support and assistance necessary for the council to perform its functions.

~~(5) Council members are not entitled to compensation or travel expenses as provided in 2-15-122.~~"

NEW SECTION. **Section 28. Ingress and egress.** (1) The department may seize, capture, or destroy escaped alternative livestock pursuant to the terms of this section.

(2) An alternative livestock ranch licensee shall report to the department and to the department of fish, wildlife, and parks all escapes of alternative livestock from and all ingress of game animals onto an alternative livestock ranch and the reason for each escape and ingress. The licensee shall report each escape or ingress immediately by telephone to the department and to the department of fish, wildlife, and parks and shall file a written report to the department and to the department of fish, wildlife, and parks within 10 days of discovery or notice of an escape or ingress. The licensee shall submit the written report on a form provided by the department and completed and signed by the licensee. Ingress by an animal other than a game animal does not require notification.

(3) A licensee shall make every reasonable effort to recapture or destroy escaped alternative livestock within the following time periods from the date of discovery or notice of the escape:

(a) 48 hours for males during the breeding seasons specified as follows:

(i) pronghorn antelope, August through September;

(ii) caribou and reindeer, September through October;

(iii) elk, September through November;

(iv) mountain sheep, November through December;

(v) mule deer, November through December;

(vi) white-tailed deer, November through December;

(vii) mountain goat, October through December;

(b) 24 hours if the alternative livestock ranch is under quarantine, except that diseased animals may be destroyed on sight; or

(c) 5 days if the conditions in subsection (3)(a) or (3)(b) do not exist, unless the licensee and the department agree to a different period.

(4) If escaped alternative livestock cannot be recaptured within the timeframes in subsection (3), the department or the department of fish, wildlife, and parks shall destroy the alternative livestock.

(5) The licensee shall notify the department and the department of fish, wildlife, and parks of the

recapture or death of escaped alternative livestock and, upon request of either department, shall confine the alternative livestock that were recaptured for inspection in the quarantine facility before releasing them to the alternative livestock ranch.

(6) The department shall make reasonable efforts to notify area alternative livestock ranch operators of escaped alternative livestock if department officials observe escaped alternative livestock or receive reports of an escape. The department shall attempt to use nonlethal means to capture and identify escaped alternative livestock when observed in the vicinity of an alternative livestock ranch. However, the department may immediately destroy any escaped alternative livestock that pose a risk to wildlife or to public health and safety. The department or the department of fish, wildlife, and parks may, without notification to area alternative livestock ranches, use lethal means to control unreported escaped alternative livestock that are observed outside the vicinity of an alternative livestock ranch.

(7) When the licensee can identify the reason for an ingress or egress, the licensee shall take immediate site-specific action to maintain the fence in a game-proof condition and prevent future ingress or egress.

(8) The department of fish, wildlife, and parks shall seize, capture, and destroy game animals that have entered an alternative livestock ranch. The licensee may request that the department conduct disease testing of ingressed game animals at the licensee's expense.

(9) A licensee who fails to comply with this section must be issued an administrative penalty pursuant to 87-4-427.

NEW SECTION. **Section 29. Programmatic environmental review.** The department, in cooperation with the department of fish, wildlife, and parks, shall, by October 1, 2000, conduct a programmatic review of environmental impacts that may be associated with the granting of a license to operate an alternative livestock ranch. The programmatic environmental review must be applied to any application for an alternative livestock ranch that is received after October 1, 2000. All costs incurred by the department in performing an environmental review of a new application must be borne by the applicant.

NEW SECTION. **Section 30. Repealer.** Section 87-4-419, MCA, is repealed.

NEW SECTION. **Section 31. Codification instruction.** [Sections 1, 28, and 29] are intended to

be codified as an integral part of Title 81, and the provisions of Title 81 apply to [sections 1, 28, and 29].

NEW SECTION. **Section 32. Contingent voidness.** (1) If Constitutional Initiative No. 75, enacting Article VIII, section 17, of the Montana constitution, is not declared invalid, then the amendment to 87-4-411 in [this act], establishing new fees chargeable to an alternative livestock ranch applicant and operator, is void.

(2) If the 1999 legislature does not appropriate sufficient money to fund the transfer of certain administrative functions related to alternative livestock ranches from the department of fish, wildlife, and parks to the department of livestock as required in [this act] and to fund the development of the programmatic review as required in [section 29 of this act], then [this act] is void.

NEW SECTION. **Section 33. Instruction to code commissioner -- renumbering.** The code commissioner shall renumber Title 87, chapter 4, part 4, as an integral part of Title 81 and may revise statutory, numerical, and grammatical references as necessary to effectuate the renumbering.

- END -

# FISCAL NOTE

**Bill #:** SB0361 **Title:** Revise alternative livestock producers regulatory authority

**Primary Sponsor:** Ken Mesaros **Status:** As introduced

Sponsor signature Date

Dave Lewis 2-5-99

Dave Lewis, Budget Director Date

## Fiscal Summary

| | FY2000 Difference | FY2001 Difference |
|---|---|---|
| **Expenditures:** | | |
| General Fund (01) | $334,985 | $320,810 |
| State Special Revenue (02) Livestock | $56,589 | $75,452 |
| State Special Revenue (02) FWP | (104,000) | (104,000) |
| **Revenue:** | | |
| State Special Revenue (02) | $56,589 | $75,452 |
| **Net Impact on General Fund Balance:** | **($334,985)** | **($320,810)** |

| Yes | No | | Yes | No | |
|---|---|---|---|---|---|
| X | | Significant Local Gov. Impact | X | | Technical Concerns |
| X | | Included in the Executive Budget | | X | Significant Long-Term Impacts |

## Fiscal Analysis

ASSUMPTIONS:

**Department of Livestock**

1. SB361 has an effective date of 10-1-99. Where applicable, FY 2000 estimates have been adjusted to reflect the remaining nine months of the fiscal year.
2. Three additional FTE are projected at grade 14, 12, and 11 for a wildlife biologist, field staff and support staff respectively over the 2001 biennium. FY 2000 personnel services costs will be $44,902 for 1.50 FTE and FY 2001 costs will be $88,500 for 3.00 FTE.

SB 361

3. One-time vehicle purchase calculations are based upon FY 1999 budget recommended purchase costs of $26,922 for 1.5 4x4 extended cab pickups in FY 2000.
4. Anticipated legal defense costs are based upon the present legal services rate at the A.G.'s office of $62 per hour and 1560 hours, which is equivalent to $72,540 in FY 2000 and $96,720 in FY 2001.
5. Other operating costs include alternative livestock assessments and environmental impact statements.
6. The department would receive the estimated $6,000 for game farm license renewals and $6,000 for new and/or expansion applications for game farms annually, plus the increased fees contained in Section 12 for a prorated total of $56,589 in FY 2000 and a projected ongoing annual total of $75,452 beginning in FY 2001. [See technical note 2] The fiscal impact is an additional net cost to the Department of Livestock to its existing game farm program which in FY 1998 operated at a deficit of $26,968.

**Department of Fish, Wildlife and Parks**

7. FWP would no longer contract for environmental assessments and impact statements. The $208,000 biennial appropriation would no longer be needed.
8. FWP would no longer receive the estimated $6,000 for game farm license renewals and $6,000 for new and/or expansion applications for game farms annually.
9. FWP would be required to continue conducting some activities for the alternative livestock industry but with no regulatory authority associated with these duties. Duties required include inspecting new alternative livestock facilities to ensure that no game animals are held within the enclosures and inspecting all alternative livestock facility fences annually with Department of Livestock. Fence inspections would be duplicative of Department of Livestock responsibilities and are covered under the authorities of Department of Livestock. Current Fish, Wildlife and Parks staff would be responsible for completing these activities. No new funding or change in FTE would be required.
10. FWP would continue to be involved in the alternative livestock industry through statutory responsibilities for reviewing Department of Livestock environmental assessments and impact statements, participating in Department of Livestock's preparation of programmatic environmental impact statements for alternative livestock ranches, removal of ingressed game animals from alternative livestock enclosures, and for participation in the Alternative Livestock Advisory Council. These duties would be the responsibility of current FWP staff. No new funding or change in FTE would be required.
11. FWP will continue to regulate the licensing of carnivores and omnivores under the zoo/menagerie statutes. There are approximately 13 facilities licensed for mountain lions and black bears. These duties will be the responsibility of current FWP staff. No new funding or change in FTE would be required.
12. Since 1983 FWP has increasingly redirected staff time to cover responsibilities of game farm administration. This staff time will be redirected back to job duties that historically have required more time than was available.
13. In addition to redirected legal staff, FWP currently allocates approximately $10,000 per year to contracted services with the Attorney General for game farm prosecutions. These funds are only allocated as needed.

FISCAL IMPACT:

| **Department of Livestock** | FY2000 Difference | FY2001 Difference |
|---|---|---|
| FTE | 1.50 | 3.00 |
| Expenditures: | | |
| Personal Services | $44,902 | $88,500 |
| Operating Expenses | 289,488 | 306,970 |
| Equipment | 57,184 | 792 |
| TOTAL | $391,574 | $396,262 |

| Funding: | | |
|---|---|---|
| General Fund (01) | $334,985 | $320,810 |
| State Special Revenue (02) | 56,589 | 75,452 |
| TOTAL | $391,574 | $396,262 |
| **Revenues:** | | |
| State Special Revenue (02) | $56,589 | $75,452 |
| **Net Impact to Fund Balance (Revenue minus Expenditure):** | | |
| General Fund (01) | ($334,985) | ($320,810) |

FISCAL IMPACT:

**Department of Fish, Wildlife and Parks**

| | FY2000 Difference | FY2001 Difference |
|---|---|---|
| Expenditures: | | |
| Operating Expenses | ($104,000) | ($104,000) |
| Funding: | | |
| State Special Revenue (02) | ($104,000) | ($104,000) |
| Revenues: | | |
| State Special Revenue (02) | ($12,000) | ($12,000) |
| Net Impact to Fund Balance (Revenue minus Expenditure): | | |
| Federal Special Revenue (03) | $92,000 | $ 92,000 |

LONG-RANGE IMPACTS:

The game farm program at the Department of Livestock would require a general fund appropriation.

TECHNICAL NOTES:

1. Reorganizations are made effective July 1 so the programs affected will have a complete fiscal year to operate and develop a base budget for the next legislative session.
2. Section 12 provides for increased fees. This may require a vote of the electorate and, if so, a brief companion bill and a related fiscal note for the Secretary of State and county ballot costs will also be necessary.

# FISCAL NOTE

**Bill #:** SB0361 **Title:** Revise alternative livestock producers regulatory authority

**Primary Sponsor:** Ken Mesaros **Status:** As introduced & amended by S. Ag Livestock & Irrigation Committee

2/20/99 — Sponsor signature — Date

2-19-99 — Dave Lewis, Budget Director — Date

## Fiscal Summary

| | FY2000 Difference | FY2001 Difference |
|---|---|---|
| **Expenditures:** | | |
| General Fund | 0 | 3,970 |
| State Special Revenue | $220,226 | $72,214 |
| **Revenue:** | | |
| General Fund | 0 | 0 |
| State Special Revenue | $261,877 | $164,214 |
| **Net Impact on General Fund Balance:** | **0** | **($3,970)** |

| Yes | No | | Yes | No | |
|---|---|---|---|---|---|
| | X | Significant Local Gov. Impact | X | | Technical Concerns |
| X | | Included in the Executive Budget | X | | Significant Long-Term Impacts |

## Fiscal Analysis

ASSUMPTIONS:

**Department of Livestock**

1. The revised effective date is July 1, 2000.
2. FTE are projected at one grade 16 with MEPA/legal expertise, one grade 12 field staff, and one grade 12 support staff. The support staff will begin April 1, 2000 and the cost of personal services will be $6,651 in FY 2000 and $101,408 in FY 2001 for the 0.25 FTE and 3.00 FTE each year respectively.
3. Operating expenses include a vehicle lease at 18,000 miles X .32 cents per mile = $5,760 in FY 2001 (MDOT rates for the 2001 biennium) and one 4x4 ATV to be utilized in the field and purchased for $5,199 in FY 2001.

SB 361 #2

4. Anticipated legal defense costs are based upon the present legal service rate at the AG's office of $62 per hour for 500 hours equals $31,000 in FY 2001.
5. Programmatic EIS development will be done by the DFWP during FY 2000. Assessment costs will remain with FWP for FY 2000 and then become the responsibility of the Department of Livestock. Environmental assessments are estimated at $50,000 in FY 2001 for contracted services in the Department of Livestock.
6. The department would receive the estimated $12,000 for game farm license renewal and $6,000 for new and expansion application during FY 2001. Increased fees in Section 12 are $43,452 in FY 2000 and $51,144 in FY 2000. In FY 2001 the acreage fee will be $6,444. The revenue figure for license application renewal fees was provided by FWP based upon present annual collections. This state special revenue is included in the DFWP current budget request.
7. Section 12 as amended adds a $25 fee on out-of-state imports of game farm animals. The past two year average has been 257 animals at $25 = $6,425 of state special revenue.
8. Section 29 as amended will allow the department to recover costs associated with an environmental review. Estimated revenues are $94,201 during FY 2001.
9. General fund will be required to fund the program above projected state special revenue in FY 2001.

**Department of Fish, Wildlife and Parks**

10. FWP would continue to contract for environmental assessments and impact statements through FY 2000. Starting in FY 2001 the $208,000 biennial appropriation would no longer be needed.
11. Starting in FY 2001, FWP would no longer receive the estimated $6,000 for game farm license renewals and $6,000 for new and/or expansion applications for game farms annually.
12. Current FWP staff duties required include inspecting new alternative livestock facilities to ensure that no game animals are held within the enclosures and conducting a programmatic EIS. Current FWP staff would be responsible for completing these activities. No new funding or change in FTE would be required.
13. FWP would continue to be involved in the alternative livestock industry through statutory responsibilities for preparing the wildlife components of the Department of Livestock environmental assessments and impact statements, preparing a programmatic environmental impact statements for alternative livestock ranches, removal of ingressed game animals from alternative livestock enclosures, and for participation in the Alternative Livestock Advisory Council. These duties would be the responsibility of current FWP staff. No new funding or change in FTE would be required.
14. FWP will continue to regulate the licensing of carnivores and omnivores under the zoo/menagerie statutes. There are approximately 13 facilities licensed for mountain lions and black bears. These duties will be the responsibility of current FWP staff. No new funding or change in FTE would be required.
15. Since 1983 FWP has increasingly redirected staff time to cover responsibilities of game farm administration. This staff time will be redirected back to job duties that historically have required more time than was available.
16. In addition to redirected legal staff, FWP currently allocates approximately $10,000 per year to contracted services with the Attorney General for game farm prosecutions. These funds are only allocated as needed.

FISCAL IMPACT:

**Department of Livestock**

| | FY2000 Difference | FY2001 Difference |
|---|---|---|
| FTE | 0.25 | 3.00 |
| Expenditures: | | |
| Personal Services | $6,651 | $101,408 |
| Operating Expenses | 13,575 | 86,658 |
| Equipment | 0 | 21,769 |
| TOTAL | **$20,226** | **$209,835** |

| | | |
|---|---|---|
| Funding: | | |
| General Fund (01) | 0 | $3,970 |
| State Special Revenue (02) | $20,226 | $176,214 |
| TOTAL | $20,226 | $209,835 |
| | | |
| Revenues: | | |
| State Special Revenue (02) | $49,877 | $176,214 |
| | | |
| **Department of Fish, Wildlife and Parks** | | |
| Expenditures: | | |
| Operating Expenses -- EIS | 200,000 | ($104,000) |
| | | |
| Funding: | | |
| State Special Revenue (02) | 200,000 | ($104,000) |
| | | |
| Revenues: | | |
| State Special Revenue (02) | 12,000 | ($12,000) |
| | | |
| Net Impact to Fund Balance (Revenue minus Expenditure): | | |
| State Special Revenue (03) | ($200,000) | $ 92,000 |

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Local alternative livestock operations may need to generate revenue to cover the shortfall. The Department of Livestock per capita fee is not a feasible option under present conditions.

TECHNICAL NOTES:
**Department of Livestock**
1. SB361 lacks sufficient revenue to fund the alternative livestock (Game Farm) program.
2. The Department of Livestock will utilize a programmatic review developed by FWP.

**Department of Fish, Wildlife and Parks**
1. Section 12 provides for increased fees. If CI-75 is not declared invalid then this legislation is void.
2. Section 29 requires FWP to prepare a programmatic EIS for the game farm regulatory program, which would then be implemented by DOL. FWP is aware of no circumstances at either the state or federal level in which one agency has prepared a programmatic EIS and a second agency must implement it.

# FISCAL NOTE

**Bill #:** SB0361 **Title:** Revise alternative livestock producers regulatory authority

**Primary Sponsor:** Ken Mesaros **Status:** As amended by S. Ag Livestock & Irrigation Committee

Sponsor signature 3/17/99 Date

Dave Lewis, Budget Director 3-17-99 Date

## Fiscal Summary

| | FY2000 Difference | FY2001 Difference |
|---|---|---|
| **Expenditures:** | | |
| State Special Revenue (02) | $262,349 | $69,097 |
| **Revenue:** | | |
| State Special Revenue (02) | 25,600 | 25,600 |
| **Net Impact on General Fund Balance:** | **$0** | **$0** |

| Yes | No | | Yes | No | |
|---|---|---|---|---|---|
| X | | Significant Local Gov. Impact | X | | Technical Concerns |
| X | | Included in the Executive Budget | | X | Significant Long-Term Impacts |

## Fiscal Analysis

ASSUMPTIONS:

**Department of Livestock (DOL)**

1. SB 361 will have an effective date of October 1, 1999.
2. 1.50 additional FTE are projected, a grade 12 field staff and a grade 10 office support in FY 2000 and 2.00 FTE in FY2001. The annual costs for the FTE are $43,184 in FY 2000 and $57,579 in FY 2001.
3. Per diem for the field staff is $1,656 in FY 2000 and $2,208 in FY 2001 (8 days a month at $23 a day times 9 months).
4. Operational costs include a leased vehicle, per diem for field staff, and office equipment which total $10,416 in FY 2000 and $7,968 in FY 2001.
5. Equipment costs is for one ATV at $5,199 in FY 2000.

SB 361 #3

6. Existing revenues under current law are $36,732 based upon $12 a head per capita fee times 3,061 head of alternative livestock. Current per capita fees will need to be increased to cover the shortfall of funding for current operations of about $45,000. The Board of Livestock has the authority to increase fees sufficient to cover revenue shortfalls for current operations that are not included in this legislation.
7. This bill increases estimated renewal fees to $17,200 of which one half goes to FWP and DOL, plus a total of $6,000 new fees of which one half is divided between DFWP and DOL.
8. Section 12 creates a new import fee not to exceed $50 on each alternative livestock imported into the state. Average imports for the last two years are 288 animals. Fees could range from zero to $14,400.
9. The Alternative Livestock Industry agrees to the increase in per capita fee to offset revenue shortfall.
10. All revenues are to be deposited in a state special revenue account.

**Department of Fish, Wildlife and Parks (FWP)**

11. FWP would be responsible for the cost of preparing a programmatic environmental impact statement at an estimated cost of $200,000.
12. FWP would continue to contract for environmental assessments and impact statements to address site-specific issues for each application. The $208,000 biennial appropriation would continue to be needed to keep pace with the increasing number of applications and consultant costs. The funds are included in FWP operations budget.
13. FWP currently receives approximately $12,000 each year in fees. This legislation would cause a $400 reduction annually due to the sharing of fees with the DOL.
14. FWP would continue to be responsible for licensing new facilities, including preparation of environmental assessments, assuring the removal of all wild game animals from game farm enclosures, confiscation of unlawfully held game farm animals, and legal disputes over licensing. Additional time will be allocated to coordination and communication with Department of Livestock and other agencies for MEPA compliance and regulatory compliance investigations, including license revocations. Current level FTE would be responsible for these activities and the current level budget would not be reduced.
15. This bill will require FWP to pay legal fees for any licensing decisions that are successfully challenged by the applicant. It is estimated that there will be an average of two appeals per year. Over the biennium, it is estimated that one of the appeals will be successful. Legal costs for one of four appeals per biennium are estimated to be $5,000 for 30 hours of legal work plus expenses. There is no provision for recovering FWP legal costs in unsuccessful challenges.
16. FWP will continue to regulate the licensing of carnivores and omnivores under the zoo/menagerie statutes. There are approximately 13 facilities licensed for mountain lions and black bears. These duties will be the responsibility of current level FWP staff. No new funding or increase in FTE would be required.
17. Since 1983 FWP has increasingly redirected staff time to cover responsibilities of game farm administration. Any game warden or biologist staff time that may be freed up as a result of changes in duties will be redirected back to job duties that historically have required more time than was available. No reduction in program management or legal staff time is anticipated under this bill.
18. FWP currently allocates approximately $10,000 per year to contracted services with the Attorney General for game farm prosecutions. These funds will continue to be necessary, but are only allocated as needed. FWP and DOL will share operating costs for the Game Farm Advisory Council. Total annual costs are estimated to be $2,100.

FISCAL IMPACT:

**Department of Livestock (DOL)**

| | FY2000 Difference | FY2001 Difference |
|---|---|---|
| FTE | 1.50 | 2.00 |
| Expenditures: | | |
| Personal Services | $43,184 | $57,579 |
| Operating Expenses | 10,416 | 7,968 |
| Equipment | 5,199 | 0 |
| TOTAL | $58,799 | $65,547 |
| Funding: | | |
| State Special Revenue (02) Import/New Fees | $26,000 | $26,000 |
| Revenues: | | |
| State Special Revenue (02) | $26,000 | $26,000 |
| Net Impact to Fund Balance (Revenue minus Expenditure): | | |
| State Special Revenue (02) | ($32,799) | ($39,547) |

**Department of Fish, Wildlife and Parks (FWP)**

| | FY2000 Difference | FY2001 Difference |
|---|---|---|
| FTE | 0 | 0 |
| Expenditures: | | |
| Operating Expenses | $203,550 | $3,550 |
| Funding: | | |
| State Special Revenue (02) | $203,550 | $3,550 |
| Revenues: | | |
| State Special Revenue (02) | ($400) | ($400) |
| Net Impact to Fund Balance (Revenue minus Expenditure): | | |
| State Special Revenue (02) | ($203,950) | ($3,950) |

TECHNICAL NOTES:

**Department of Livestock**

1. Only the Board of Livestock can increase the per capita fee. The per capita fees needed to cover current operational deficits of the departments game farm operations can be increased within statutory limitations.

**Department of Fish, Wildlife and Parks**

1. FWP will have fiscal, technical and legal responsibilities for licensing, including revocation, but DOL will have all responsibility for compliance and general enforcement. FWP will be required to take legal action based on information provided by DOL and technical support provided by DOL staff. Most of the basis for license revocation is based on compliance with game farm requirements under the authority of DOL.
2. FWP will be responsible for license renewals. DOL will have to provide the documentation supporting each license renewal or substantiating license revocation and coordinate with FWP legal staff.
3. Game farm license fee revenue provided to FWP will supply less than 3% of the cost to FWP for managing the game farm program.

**SB 342** SPONSOR: Hargrove, Don SHORT TITLE: Create the Montana agricultural heritage preservation program
REFERRED ON: 02/22/1999 HEARD ON: 03/09/1999
EXECUTIVE ACTION: 03/12/1999 Bill Concurred -- VOTE: 15 - 5
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

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**SB 361** SPONSOR: Mesaros, Ken SHORT TITLE: Revise alternative livestock producers regulatory authority
REFERRED ON: 03/24/1999 HEARD ON: 03/25/1999
EXECUTIVE ACTION: 03/26/1999 Bill Concurred as Amended -- VOTE: 16 - 4
FINAL DISPOSITION 05/07/1999 Chapter Number Assigned

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**SB 384** SPONSOR: Mesaros, Ken SHORT TITLE: Revise statutes related to roadside menageries and zoos
REFERRED ON: 03/02/1999 HEARD ON: 03/09/1999
EXECUTIVE ACTION: 03/24/1999 Bill Concurred -- VOTE: 17 - 3
FINAL DISPOSITION 04/16/1999 Chapter Number Assigned

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**SB 394** SPONSOR: Tester, Jon SHORT TITLE: Montana organic certified commodities
REFERRED ON: 02/20/1999 HEARD ON: 03/02/1999
EXECUTIVE ACTION: 03/05/1999 Bill Concurred -- VOTE: 17 - 2
FINAL DISPOSITION 03/25/1999 Chapter Number Assigned

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**SB 401** SPONSOR: Holden, Ric SHORT TITLE: Redefine agricultural use for gasoline and special fuel tax refunds
REFERRED ON: 03/02/1999 HEARD ON: 03/11/1999
EXECUTIVE ACTION: 03/24/1999 Bill Concurred -- VOTE: 16 - 4
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

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**SJ 11** SPONSOR: Jergeson, Greg SHORT TITLE: Urge investigation of causes for depressed agricultural product market prices
BY REQUEST OF: (S) Agriculture, Livestock And Irrigation Standing Committee
REFERRED ON: 03/02/1999 HEARD ON: 03/23/1999
EXECUTIVE ACTION: 03/24/1999 Bill Concurred -- VOTE: 19 - 1
FINAL DISPOSITION 04/12/1999 (S) Filed with Secretary of State

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**SJ 21** SPONSOR: Hargrove, Don SHORT TITLE: Interim study of incentives to preserve ag land with cluster developments
REFERRED ON: 04/13/1999 HEARD ON: 04/15/1999
EXECUTIVE ACTION: 04/15/1999 Bill Concurred -- VOTE: 15 - 1
FINAL DISPOSITION 04/22/1999 (S) Filed with Secretary of State

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# MINUTES

## MONTANA HOUSE OF REPRESENTATIVES
## 56th LEGISLATURE - REGULAR SESSION

## COMMITTEE ON AGRICULTURE

**Call to Order:** By **CHAIRMAN JOE BARNETT**, on March 25, 1999 at 3:00 P.M., in Room 437 Capitol.

## ROLL CALL

**Members Present:**

Rep. Joe Barnett, Chairman (R)
Rep. John L. Holden, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Paul Clark (D)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Mary Anne Guggenheim (D)
Rep. Donald L. Hedges (R)
Rep. Verdell Jackson (R)
Rep. Rick Jore (R)
Rep. Monica Lindeen (D)
Rep. Gay Ann Masolo (R)
Rep. Sam Rose (R)
Rep. Brennan Ryan (D)
Rep. Frank Smith (D)
Rep. Bob Story (R)
Rep. Bill Thomas (R)
Rep. Cliff Trexler (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Joyce Bankhead, Committee Secretary
Todd Everts, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 361 posted 3/23/99
Executive Action: SB 361

Opening by Chairman Barnett. Explained the Joint Committee Dinner on April 8th.

## HEARING ON SB 361

**Opening Statement by Sponsor:**
**Senator Ken Mesaros, SD 25.**
***{Tape : 1; Side : A; Approx. Time Counter : 2.5 - 14.5}***

**Proponents' Testimony:**
Mark Taylor, MT Alternative Livestock Producers
**EXHIBIT(1) EXHIBIT(2)**
***{Tape : 1; Side : A; Approx. Time Counter : 14.5 - 30}***

Gerri Backes, from Kalispell
***{Tape : 1; Side : B; Approx. Time Counter : 0 - 2.4}***

Cindy Kafka, rancher
***{Tape : 1; Side : B; Approx. Time Counter : 2.4 - 5.8}***

Willy Duffield, County Commissioner from Baker
***{Tape : 1; Side : B; Approx. Time Counter : 5.8 - 7.5}***

Charles Taylor, rancher in Central Montana
***{Tape : 1; Side : B; Approx. Time Counter : 7.5 - 9.3}***

Brian Tutsett, rancher from Kalispell
***{Tape : 1; Side : B; Approx. Time Counter : 9.3 - 11}***

Bob Spoklie, Pres. MT Alternative Livestock
***{Tape : 1; Side : B; Approx. Time Counter : 11 - 15.7}***

Stuart Doggett, MT Veterinary Medical Assoc.
***{Tape : 1; Side : B; Approx. Time Counter : 15.7 - 17}***

Myra Bridgewater, from Townsend
***{Tape : 1; Side : B; Approx. Time Counter : 17 - 17.4}***

Kim Kafka, rancher **EXHIBIT(3)**
***{Tape : 1; Side : B; Approx. Time Counter : 17.4 - 18.4}***

**Opponents' Testimony:**

Paul Sihler, on behalf of administration of Governor's office.
**EXHIBIT(4)** **EXHIBIT(5)**
***{Tape : 1; Side : B; Approx. Time Counter : 18.4 - 26}***

Van Jamison, MT Wildlife Federation
***{Tape : 1; Side : B; Approx. Time Counter : 26 - 27.8}***
***{Tape : 2; Side : A; Approx. Time Counter : 0 - 3.4}***

Stan Frasier, Prickley Pear Sportman Assn.
***{Tape : 2; Side : A; Approx. Time Counter : 3.4 - 9.2}***

Stan Rauch, MT Bowhunters Assoc. **EXHIBIT(6)**
***{Tape : 2; Side : A; Approx. Time Counter : 9.2 - 11.1}***

**Questions from Committee Members and Responses:**

Rep. Jore to Rauch
***{Tape : 2; Side : A; Approx. Time Counter : 11.1 - 15.9}***
Rep. Jore to Mesaros
***{Tape : 2; Side : A; Approx. Time Counter : 15.9 - 20.7}***
Rep. Clark to Taylor
***{Tape : 2; Side : A; Approx. Time Counter : 20.7 - 29.2}***
Rep. Clark to Sihler
***{Tape : 2; Side : A; Approx. Time Counter : 29.2 - 30.8}***
***{Tape : 2; Side : B; Approx. Time Counter : 0 - 0.6}***
Rep. Clark to Dr. Tom Linfield, Dept. of Livestock
***{Tape : 2; Side : B; Approx. Time Counter : 0.6 - 3.2}***
Rep. Clark to Sihler
***{Tape : 2; Side : B; Approx. Time Counter : 3.2 - 5.1}***
Rep. Clark to Karen Zackheim, FWP
***{Tape : 2; Side : B; Approx. Time Counter : 5.1 - 9.5}***
Rep. Holden to Backes
***{Tape : 2; Side : B; Approx. Time Counter : 9.5 - 11.4}***
Rep. Holden to Bob Stephens
***{Tape : 2; Side : B; Approx. Time Counter : 11.4 - 13.7}***
Rep. Holden to Frasier
***{Tape : 2; Side : B; Approx. Time Counter : 13.7 - 20.5}***
Rep. Holden to Mesaros
***{Tape : 2; Side : B; Approx. Time Counter : 20.5 - 22.2}***
Rep. Holden to Brian Tutsett
***{Tape : 2; Side : B; Approx. Time Counter : 22.2 - 23.1}***
Rep. Holden to Gerri Backus
***{Tape : 2; Side : B; Approx. Time Counter : 23.1 - 24.3}***
Rep. Holden to Taylor
***{Tape : 2; Side : B; Approx. Time Counter : 24.3 - 25.2}***

Rep. Guggenheim to Frasier
***{Tape : 2; Side : B; Approx. Time Counter : 25.2 - 26.5}***
Rep. Guggenheim to Sihler
***{Tape : 2; Side : B; Approx. Time Counter : 26.5 - 28.8}***
***{Tape : 3; Side : A; Approx. Time Counter : 0 - 6.7}***
Rep. Guggenheim to Frasier referred to Sihler
***{Tape : 3; Side : A; Approx. Time Counter : 6.7 - 8.5}***
Rep. Hedges to Sihler
***{Tape : 3; Side : A; Approx. Time Counter : 8.5 - 12}***
Rep. Hedges to Sihler referred to Karen
***{Tape : 3; Side : A; Approx. Time Counter : 12 - 16.8}***
Rep. Hedges to Bob Spoklie
***{Tape : 3; Side : A; Approx. Time Counter : 16.8 - 20.5}***
Rep. Hedges to Marc Bridges, Dept. of Livestock
***{Tape : 3; Side : A; Approx. Time Counter : 20.5 - 21.8}***
Rep. Story to Sihler
***{Tape : 3; Side : A; Approx. Time Counter : 21.8 - 23.3}***
Rep. Story to Mesaros
***{Tape : 3; Side : A; Approx. Time Counter : 23.3 - 26.2}***
Rep. Story to Bridges
***{Tape : 3; Side : A; Approx. Time Counter : 26.2 - 28.9}***
Rep. Jackson to Sihler
***{Tape : 3; Side : A; Approx. Time Counter : 28.9 - 30.3}***
***{Tape : 3; Side : B; Approx. Time Counter : 0 - 4.3}***
Rep. Adams to Sihler
***{Tape : 3; Side : B; Approx. Time Counter : 4.3 - 5.9}***
Rep. Adams to Frasier
***{Tape : 3; Side : B; Approx. Time Counter : 5.9 - 8.7}***
Rep. Thomas to Linfield
***{Tape : 3; Side : B; Approx. Time Counter : 8.7 - 16.6}***
Rep. Mascolo to Sihler
***{Tape : 3; Side : B; Approx. Time Counter : 16.6 - 19.1}***
Rep. Galvin-Halcro to Taylor
***{Tape : 3; Side : B; Approx. Time Counter : 19.1 - 21.7}***
Rep. Galvin-Halcro to Sihler
***{Tape : 3; Side : B; Approx. Time Counter : 21.7 - 23}***
Rep. Galvin-Halcro to Linfield
***{Tape : 3; Side : B; Approx. Time Counter : 23 - 25.2}***
Rep. Galvin-Halcro to John Cooper
***{Tape : 3; Side : B; Approx. Time Counter : 25.2 - 26.3}***
Rep. Smith to Frasier
***{Tape : 3; Side : B; Approx. Time Counter : 26.3 - 28.2}***
***{Tape : 4; Side : A; Approx. Time Counter : 0 - 0.8}***
Rep. Smith to Sihler
***{Tape : 4; Side : A; Approx. Time Counter : 0.8 - 4}***
Rep. Jackson to Marc Bridges
***{Tape : 4; Side : A; Approx. Time Counter : 4 - 8.1}***

Rep. Barnett to Bridges
***{Tape : 4; Side : A; Approx. Time Counter : 8.1 - 8.9}***
Rep. Smith to Luella Schultz, D of L
***{Tape : 4; Side : A; Approx. Time Counter : 8.9 - 10.6}***

**Closing by the Sponsor:**
Senator Mesaros closes the Hearing on SB 361.
***{Tape : 4; Side : A; Approx. Time Counter : 10.6 - 20.2}***

## EXECUTIVE ACTION ON SB 361

**Motion**: **REP. HEDGES** moved that **SB 361 BE CONCURRED IN.**

**Discussion**:
Reps. Guggenheim, Jackson, Adams, and Rose. Todd Everts explained technical amendments. **EXHIBIT(7)**

**Motion/Vote**: **REP. MASOLO** moved that **SB 361 BE AMENDED. Motion carried 19-1 with Clark voting no.** Clark then changed vote to aye.
***{Tape : 4; Side : A; Approx. Time Counter : 20.2 - 27.5}***

**Motion/Vote**: **REP. ADAMS** moved that **SB 361 BE CONCURRED IN AS AMENDED. Motion carried 16-4 with Clark, Eggers, Galvin-Halcro, Guggenheim voting no.**
***{Tape : 4; Side : A; Approx. Time Counter : 27.5 - 28.2}***
***{Tape : 4; Side : B; Approx. Time Counter : 0 - 1.6}***

**SB 342** SPONSOR: Hargrove, Don SHORT TITLE: Create the Montana agricultural heritage preservation program
REFERRED ON: 01/30/1999 HEARD ON: 02/08/1999
EXECUTIVE ACTION: 02/16/1999 Bill Passed as Amended -- VOTE: 9 - 2
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

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**SB 361** SPONSOR: Mesaros, Ken SHORT TITLE: Revise alternative livestock producers regulatory authority
REFERRED ON: 02/01/1999 HEARD ON: 02/05/1999 (S) Discussed in Committee ON: 03/12/1999
EXECUTIVE ACTION: 03/19/1999 Bill Passed as Amended -- VOTE: 8 - 2
FINAL DISPOSITION 05/07/1999 Chapter Number Assigned

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**SB 384** SPONSOR: Mesaros, Ken SHORT TITLE: Revise statutes related to roadside menageries and zoos
REFERRED ON: 02/04/1999 HEARD ON: 02/05/1999
EXECUTIVE ACTION: 02/18/1999 Bill Passed as Amended -- VOTE: 10 - 0
FINAL DISPOSITION 04/16/1999 Chapter Number Assigned

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**SB 392** SPONSOR: Holden, Ric SHORT TITLE: Statewide predatory animal bounty program
REFERRED ON: 02/06/1999 HEARD ON: 02/12/1999
TABLED ON: 02/18/1999
FINAL DISPOSITION 03/01/1999 (S) Missed Deadline for General Bill Transmittal

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**SB 394** SPONSOR: Tester, Jon SHORT TITLE: Montana organic certified commodities
REFERRED ON: 02/06/1999 HEARD ON: 02/12/1999
EXECUTIVE ACTION: 02/16/1999 Bill Passed as Amended -- VOTE: 11 - 0
FINAL DISPOSITION 03/25/1999 Chapter Number Assigned

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**SB 401** SPONSOR: Holden, Ric SHORT TITLE: Redefine agricultural use for gasoline and special fuel tax refunds
REFERRED ON: 02/06/1999 HEARD ON: 02/12/1999 (S) Discussed in Committee ON: 02/17/1999
EXECUTIVE ACTION: 02/22/1999 Bill Passed as Amended -- VOTE: 8 - 2
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

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**SJ 11** SPONSOR: Jergeson, Greg SHORT TITLE: Urge investigation of causes for depressed agricultural product market prices
BY REQUEST OF: (S) Agriculture, Livestock And Irrigation Standing Committee
REFERRED ON: 02/13/1999 HEARD ON: 02/17/1999
EXECUTIVE ACTION: 02/22/1999 Bill Passed as Amended -- VOTE: 10 - 0
FINAL DISPOSITION 04/12/1999 (S) Filed with Secretary of State

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# MINUTES

## MONTANA SENATE
## 56th LEGISLATURE - REGULAR SESSION

## COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

**Call to Order:** By **CHAIRMAN REINY JABS**, on February 5, 1999 at 3:22 P.M., in Room 104 Capitol.

### ROLL CALL

**Members Present:**

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Greg Jergeson (D)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 327 2/1/99, SB 361 2/1/99, SB 384 2/4/99
Executive Action:

### HEARING ON SB 327

**Sponsor:** **SENATOR GERRY DEVLIN, SD 2, Terry**

**Proponents:** **Mark Bridges, Board of Livestock**
**John Bloomquist, Montana Stockgrowers**

rerecorded it reverts back to the state to be issued to another person. We do know of some brands that were sold for upwards of $8,000.

**SENATOR BECK** Some brands are worth more than others. But the recording fee is the same.

**Mark Bridges** Exactly. As far as we're concerned, a brand right now is worth $50.

**SENATOR BECK** How do you handle that? How do you handle a 2 letter brand that comes open?

**Mark Bridges** We conflict it. A B and an E or a F, if you had a straight F, that could be converted to a B or an E, and it depends upon the location, where people market their cattle and the brand position. It's quite a science.

***{Tape : 1; Side : A; Approx. Time Counter : 3.35}***

Closing by Sponsor:

**SENATOR DEVLIN** The way I understand it, **SENATOR BECK**, is that when a brand comes open, after it's not renewed, the first come first serve can pick that brand up for the same price. Good brands are selling very high. They are certainly worth it too. Some people don't even own a cow and they have an excellent brand.

## HEARING ON SB 361

Sponsor: **SENATOR KEN MESAROS, SD 25, Cascade**

Proponents:
**Mark Taylor, Montana Alternative Livestock**
**Loren Jenkins**
**Stuart Doggett**
**Jack Schubarth**
**Kim Kafke**
**Ken Mackey, Montana Farmers Union**
**Marty Boehm**
**Gerri Backer**
**Jeff Cuthbertson**
**Charles Taylor**
**Bob Spoklie**

Opponents:
**Pat Graham, Dept. of Fish, Wildlife & Parks**
**Gary Holmquist, Ravalli Fish & Wildlife**
**Stan Rausch**
**Terry Klampe**
**Chris Marchand**

**Bill Arsello**
**Stan Frasier**

Opening Statement by Sponsor:

**SENATOR KEN MESAROS, SD 25, SB 361** is focusing on regulatory authority transfer and not on rules and guidelines that have been involved in this lengthy process surrounding alternative livestock. Historically, Fish, Wildlife & Parks have managed wildlife throughout the State of Montana. Deptartment of Livestock's historic role is managing domestic livestock. With the growing industry of alternative livestock, these two agencies have shared a role. We'll be discussing the regulatory authority between the two.

Time and energy has been devoted in developing **SB 361** to mitigate the concerns of all interested parties. We cannot allow special interest groups with emotional pleas to influence state agencies to modify rules. We will be hearing testimony that will demonstrate there has been concerns with unrealistic time lines, inconsistency in licensing, and unreasonable stipulations. This is a viable opportunity for diversification in the agriculture arena. The operators of these alternative livestock productions are the business owners that assume the business risks that any other business owner has. They have the responsibility and certainly a high investment in this industry.

What is an alternative livestock ranch? It's operating and harvesting alternative livestock in compliance with the standards established by existing statutes and rules. Elk and deer ranching has become an alternative to traditional livestock and should be regulated as such. The '95 Legislature gave Fish, Wildlife & Parks the lead agency of alternative livestock. Their assigned responsibilities presently include licensing, reports, record keeping, exterior fencing, classification of exotic species, removal of game animals, inspection, and related enforcement actions. Dept. of Livestock is responsible for disease control, marking inspection, transportation, importation, quarantine holdovers, interior facilities, health issues, and related enforcement.

The question will be identified as to what regulatory authority will remain with FWP. It's not the attempt of the alternative livestock to remove FWP from it's legitimate role in the protection of Montana's wildlife and native habitat. Accordingly, FWP will remain involved in removal of game animals, licensing and ingress situation, prosecution of game animal theft. Dept. of Livestock must notify FWP of any unresolved discrepancies in record keeping, be involved in prelicensure and

annual inspection of exterior fencing, classification of exotic species, hybridization and genetic dilution, and advise Dept. of Livestock of disease transmission issues, assist Dept. of Livestock in development of programmatic for EA purposes. Why the transfer?

One of the results of the Vision 2005 task force directly addresses the development and marketing of alternative livestock. It recognizes alternative livestock as a livestock operation. It ensures the balance of regulations to protect sportsman interests as well as commercial and alternative livestock, provide in it's marketing.

The agriculture climate is certainly in need of some diversification. There are concerns with current regulatory framework in fundamental problems with the license process under FWP, a lack of consistency in the treatment of applications, noncompliance with statutory time frames, unreasonable license stipulations, many of which infringe upon the Dept. of Livestock's delegated responsibilities. The negotiated rules will be utilized and again, the rules and regulations that are in place will be followed throughout this process.

**SENATOR MESAROS** walked through the bill, giving explanations of Sections 1 through 30. The alternative livestock industry has grown. They have magazines and directories similar to those the livestock industry has as far as the pedigrees, production of animals. We can have a viable alternative livestock industry and yet protect our natural resources while doing that.

***{Tape : 1; Side : A; Approx. Time Counter : 3.51}***

Proponents' Testimony:

**Mark Taylor, Montana Alternative Livestock Producers,** distributed written testimony. SEE **EXHIBIT(3).** As has already been mentioned, Montana's ag industry is in trouble. Traditional producers are looking for a means to offset the current low prices. One proven suggestion is the Alternative Livestock Industry. A way of illustration, in 1997 850 tons of venison was imported into the United States at a price of 16 million dollars. That's a significant opportunity for Montana's alternative livestock.

***{Tape : 1; Side : A; Approx. Time Counter : 4.07}***

**(Turn Tape)**

**Loren Jenkins** told his experience with the application process. In May, a 26,000 acre game farm proposal south of Havre had been ruled to need an Environmental Impact Study, due to the steep slopes and crossing the rock ridge. The owner, Kim Kafke, had an engineer check the slopes and they were not too steep. Tom Hines, director of region 6 and the local game warden and biologist, Kim Kafke and myself drove around and looked at everything. We agreed to cut the pasture and ran the fences to stay on good fencing ground. This would allow him to have his operation running last fall. Everybody there agreed on this plan.

Mr. Kafke had to reapply as the original permit couldn't be amended. He did so and a public meeting was held in Havre. Testimony was mostly in favor. One group was granted an extended period. It's now late September. This group got a number of ranchers in and thought they were going to do pretty well. The ranchers decided this was similar to their own livestock operations. It's taxed and on privately owned land. Most of the ranchers posted their places saying this group was not welcome to hunt.

This game farm does have permission to operate now, but it did miss it's cycle this time. How much it cost the rancher he can't say, but it dragged out for 9 months. It's worth our effort to make it reasonable to get licenses.

**Stuart Doggett, Montana Veterinary Medical Assoc.** Our industry works a lot with the people in the alternative livestock industry. We prepare regulations for this industry that our members see growing across the state and many of them serve.

**Jack Schubarth, President, Montana Alternative Livestock Producers**, read written testimony, SEE **EXHIBIT(4)**.

**Kim Kafke**, diversified into the elk industry about 2 years ago. I worked on the negotiated rule making process. We tried to address everybody's concern, including our regulatory agency, and worked on the best fencing technology, making it mandatory and banned hybrids. All caucuses spent a lot of time on those rules. After 2 years the final draft came out and I have trouble understanding these rules anymore. Words like "may" replace "shall", "minimum" in front of a sentence, it all changes the original intent. I think we can preserve these rules.

There are special interest groups in this state that manipulated the public comment area. I have copies of Fish Wildlife & Parks' top site. You're not allowed to lobby on this site. During my entire public comment period, the Montana Wildlife Federation was allowed to lobby at free will on this site. Mr. Kafka read a

letter stating "Sportsmen had the decked stacked against them. Game farms are a potential disaster with game farmers lying and agencies making under the table deals with Fish Wildlife & Parks."

This was on my regulatory agency's site and I want to be treated fair.

**John Bloomquist on own behalf,** One of the most important parts of this legislation is the programmatic environmental review. One of the things about Montana Environmental Policy Act is the threshold between environmental assessment and a full blown environmental impact statement. That threshold is generally determined by what would be the significance of a particular project. In Mr. Kafka's instance, we debated with the FWP on whether an EIS was needed. They tried to impose a fee under MEPA to Mr. Kafka for the EIS. A problematic environmental review is absolutely necessary and should be seriously considered as a good part of this legislation.

**Ken Mackey, Montana Farmers Union,** ranches east of Belt in the Highwood Mountains. This an alternative to low ag prices. Montana will avoid some of alternative livestock horror stories from other states with this bill.

**Marty Baine,** I've ranched elk in the Kalispell area for the last 17 years. I'm a proponent of this bill.

**Gerri Backus, Montana Alternative Livestock Producer from Kalispell,** ask for your support for **SB 361.**

**Jeff Cuthbertson,** owner of Autumn Song Elk Ranch in Kalispell, turned in written testimony. **SEE EXHIBIT(5)**

**Charles Taylor,** 3rd generation livestock producer in Montana, currently cow/calf operation and elk. Submitted written testimony regarding application for and receipt of Montana game farm license. **SEE EXHIBIT(6)**

***{Tape : 1; Side : B; Approx. Time Counter : 4.40}***

**Bob Spoklie,** This type of ranching and hunting operations are carried on in all the states surrounding us, including Wyoming. Montana Wildlife Federation says it's not in Wyoming. Wyoming has the largest hunting operation in western United States. We're not asking for something that isn't already done. They talk about escapes. Since the new fencing rules have been in place, we've only had one unaccounted for elk in the last nine

years and that came out of an area that was not under the new fencing rules.

**SEE EXHIBIT(7), EXHIBIT(8), EXHIBIT(9), EXHIBIT(10), EXHIBIT(11), EXHIBIT(12), EXHIBIT(13), EXHIBIT(14),**and **EXHIBIT(15),** handouts distributed to the committee.

Opponents' Testimony:

**Pat Graham, on behalf of the Administration of Governor Marc Racicot,** read written testimony. **SEE EXHIBIT(16)**

**(CHANGE TAPE)**

**Gary Holmquist, Member Ravalli Fish and Wildlife,** feels vehemently about this issue and that it remains under FWP. Passed out document on Game Farm Industry and its implications for wildlife. SEE **EXHIBIT(17).** There is a large farm in the Bitterroot where tax dollars are paying for EIS's and Environmental Assessments. He didn't think tax payers should have to support this industry.

This industry in not on an upswing. He read a quick excerpt from the 1/10/99 Sydney Morning Herald that says "deer farmers have been devastated by the loss of venison export markets. The deer industry has collapsed from competition and the Asian economic crisis". Someone earlier stated the Montana Wildlife Federation lies, saying other states don't have game farms. That's not what the Federation says. Read last paragraph of report from Wyoming, from 1991, stating "did not get rid of existing game farms, stopped any future game farms, stopped captive shooting, stopped proliferation of wildlife. We believe the information presented in this report presents a real risk to native wildlife populations of Wyoming".

Heard a lot about domestic livestock and alternative livestock inside the fence and out. The issues that surround game farms are unique to wildlife. They're not unique to domestic livestock. If a cow escapes from a fence she doesn't breed with an elk, while a domesticated elk will interbreed.

**Stan Rauch, Montana Bowhunters Assoc.,** read written testimony. **SEE EXHIBIT(18).**

**Terry Klampe,** Four years ago I stood in front of this committee with a piece of legislation that sought to phase out game farms in Montana. We tried to emphasize the absolute biological dangers associated with game farms. Four years later I stand in front of the same committee and I can honestly tell you I speak

for thousands of Montanans who are equally concerned. Dept. of Livestock does not have the expertise to deal with these complicated real and potential biological dangers posed to our wildlife. At the very least, you should keep FWP involved at the current level.

**Chris Marchand,** sits on the Governor's Game Farm Council which helps identify problems within the industry and provides some direction addressing those problems. The council was created by the 1995 Legislature as reaction to all the confrontational legislation that came from both sides in both the '93 and '95 sessions. The Negotiated Rules Committee has been meeting for over two years in an attempt to find some common ground between wildlife and livestock interests. The result of their efforts came to fruition this past November. All of the participants agreed to a series of rules that would be implemented and administered by both FWP and DoL.

It's his opinion that the rules agreed to should be adopted and administered in the manner agreed. Changing the administration of these rules would be disregarding the effort of everyone who participated in that process. By removing FWP supervision, there would be no protection measures in place for wildlife. The DoL does not qualify to determine the adverse affects concerning wildlife.

**Bill Orsello,** Montana's publicly owned wildlife is a billion dollar economic benefit to the State of Montana. One of the foremost authorities on wild ungulate populations identified game farming as one of the greatest threats to this resource. We're going to have game farms in Montana and it's critical that the oversight of that industry be under the scrutiny of an agency that's statutorily responsible and a demonstrates commitment to protecting our wild game populations. Fish, Wildlife and Parks has demonstrated that commitment.

**Stan Frasier, Montana Wildlife Federation,** The Montana Wildlife Federation had two representative on the Negotiated Rule Making Committee, Mike Vashro and Joel Scrafford. Joel is a retired US Fish and Wildlife Service Game Warden who spent much of his career regulating and investigating game farm operations. This is his statement. **SEE EXHIBIT(19).**

This bill is about disease threat to our native wildlife. The game farm industry is seeking less oversight so they can make more money. The game farm industry has a history of disease problems; many other states have studied that and decided this is too dangerous.

***{Tape : 2; Side : A; Approx. Time Counter : 5.07}***

Questions from Committee Members and Responses:

**SENATOR NELSON** If this bill will give a lot of responsibility to DoL. Are they willing to take this on and not to be manipulated by the game people?

**Mark Bridges** The Dept. of Livestock and Board of Livestock are neither opponent nor proponent of the bill. We felt if the legislature was going to require DoL to do those functions, it should be properly financed and staffed and that's why this fiscal bill is the way it is. We had not done some of these things, so we have to properly staff and educate ourselves.

**SENATOR DEVLIN** You have a fiscal note you signed?

**SENATOR MESAROS** I'm surprised there's not a fiscal note in your packet. The fiscal note was delivered to me this morning but I did not sign it as I did not agree.

**SENATOR DEVLIN** Have you had a chance to compare the draft fiscal note with what is in the book on page 10.

**SENATOR MESAROS** No.

**SENATOR JERGESON** Questions related to Section 32. Apparently if the Supreme Court does not find CI75 unconstitutional, then the fee changes earlier in the bill will not be implemented and you will not submit the issue of those fees to the voters? Is that what I understand?

**Mark Taylor** It dies if CI 75 is not declared invalid.

**SENATOR JERGESON** That's not what it says here. In fact, it only says that it will be an invalid act or a voided act if sufficient money is not appropriated.

**Mark Taylor** We'll look to amend. The intent of that section is that if CI 75 is not invalidated, the bill does not proceed through the legislative process.

**SENATOR JERGESON** What would be the source of the funds appropriated to the Dept. of Livestock for administering this act.

**Mark Taylor** We have not identified those funds, but it's anticipated that at least the start up costs would have to probably come from the general fund.

**SENATOR JERGESON** If it's not appropriated from the general fund, would it be permissable to appropriate it from ear marked revenue accounts in the DoL?

**Mark Taylor** We do not anticipate appropriating funds from other revenue sources in the DoL.

**SENATOR JERGESON** How about ear marked revenue accounts in the Dept. of Fish, Wildlife & Parks?

**Mark Taylor** That is not our intention. With regard to the budget process, we defer to the legislature to identify those funds.

**SENATOR JERGESON** In your package you include Montana Dept. of Livestock fiscal impact. Is this an estimate developed by DoL? Is that what's incorporated into the fiscal note?

**Mark Taylor** The fiscal note you have in your right hand is what I received from the Dept. yesterday. I've not seen the official fiscal note so as to compare the two.

**SENATOR JERGESON** Looking at these numbers and what the DoL has identified as costs, do you dispute these numbers.

**Mark Taylor** We just received those figures. That fiscal note was created, to my understanding on October 1 effective date of this year. We are looking at exploring alternatives to address precisely those costs in the fiscal note.

**SENATOR JERGESON** If CI 75 is found invalid and the fee schedule in the bill is approved, apparently you estimate in 2001 it would generate $84,636 which is well short of the ongoing costs for fiscal year 2001 of $396,00. From where will that difference be made up?

**Mark Taylor** I would like to submit fiscal note preface on July 1, 2001 effective date. I would like an opportunity to do that Monday for your review to hopefully address those questions where we can still enable the DoL to adequately staff and fund the program within the Dept., but at the same time be able to address the funding through fees within the association itself.

**SENATOR BECK** I was sitting on this committee when we looked at this 4 years ago. We still have the same problem. Did I hear someone say some of the rules are just being adopted after 4 years of this program?

**Pat Graham** Two years ago we started a negotiated rule making process. It was October '98 before those rules were signed off

on by all participants in the rule making process. The attempt was to try to provide some more certainty in addressing the issues they spoke to earlier, like fencing, etc.

**SENATOR BECK** Was game farming on a hold this whole time while you were trying to come up with these rules and regulations?

**Pat Graham** A number of applications were processed in this last 2 years. Nothing has been put on hold.

**SENATOR BECK** The first criteria for evaluating game farms is destruction of habitat of endangered species. What's the tie between game farming and destruction of habitat.

**Pat Graham** When you put in a game farm, you remove all the native ungulates off of that property. When the changes were made, we discussed what criteria should be used in the siting and determining whether it be appropriate to site game farms in those areas. These were the three criteria established. We have not, at this point, turned down any game farms because of impacts on endangered species.

**SENATOR BECK** But you've probably dragged that on by looking at that impact, and I can't believe the average size of a game farm would be that big that it's going to get into that type of a scenario.

**Pat Graham** We have 120 days to complete our review. As I mentioned, in 6 instances we overshot that by an average of twelve and a half days in the last two years. I don't believe we're dragging that on, we hire a consultant to do the MEPA compliance, do the EA for us, provide that document. Several of the proponents of this bill spoke about the environmental reviews that's been done on their game farms.

**SENATOR TESTER** Disease was brought up on both ends. I refer back to what **SENATOR MESAROS** said about transferring this from one department to another. What is the incidence of disease in these game farms, if there are any solid figures on that, and are there any solid figures on transference to the wildlife population.

**SENATOR MESAROS** I don't have those particular figures at my fingertips. The focus is on regulatory authority and the disease issues will fully be addressed regardless of who handles that authority. Possibly Mark Taylor could furnish those figures.

**SENATOR TESTER** If it's an issue of consequence, I need to hear from the DoL if it's in their power to resolve that issue.

**Dr. Arnold Gertonson, Veterinarian with Dept. of Livestock,** At this time, since we have not had this full program transferred over, we feel the fiscal note in front of you would provide us with the funds necessary.

**SENATOR BECK** I'm looking through here, 41 new game farms licenses for expansion, 22 existing game farms, 16 other game farms. Did you deny any permits. Only 1? What ground did you deny that one?

**Pat Graham** I would have to refer that. Expansion on Wallace game farm in the Bitterroot, and I think the impact there was it was expanding into an important mule deer winter range. If you like, I have people here from my regional staff.

**SENATOR BECK** I'd like to know how big it was. I'm trying to get a handle on what kind of impact we're getting into.

**Rich Clark,** former regional supervisor when that issue was made, That particular application involved an addition of 1800 acres that's traditional winter range for a fairly large herd of mule deer. They had already encompassed 1200 acres. We had some problem with migration, the deer were running along the fence line and were impeded from going further. We felt that 1800 additional acres were really going to impact that native herd.

**SENATOR BECK** That was his private land.

**Rich Clark** That's correct.

**VICE CHAIR MCNUTT** A lot of rules have been worked on over the last two to four years to come to this point. If this bill goes into effect, are you going to start that process all over again?

**SENATOR MESAROS** The negotiated rule making that they've adopted will be adopted and transferred from one department to the next.

**SENATOR NELSON** Everybody had signed off on this Negotiated Rule Making, is that right?

**Pat Graham** That's true.

**SENATOR NELSON** I've heard from some of the people that represented these game farms that didn't feel satisfied with that negotiated rule making at all and that's why this bill is back before us. If they signed off on it, on one hand they must have signed but they weren't agreeing with it.

**Pat Graham** It took 2 years to get to where we were. It was by a consensus process so everybody had to agree on it before it could openly move forward. We had an independent facilitator out of Missoula hired to help do the process because not only was FWP involved in that process but these were joint rules that included the rules that guide the DoL, so it wasn't just FWP's rules, it was the whole thing. We had representations of the interests of that were involved in that and the whole group sat down time and time and time again to work through the various provisions, changes of the rules and it took 2 years to get that done.

**SENATOR NELSON** And none of the little words have changed since that time, like a "may" become a "shall".

**Pat Graham** We sent the rules to the facilitator, which was Gerald Mueller, to ask him to review those and make sure that in the final drafting there was no change of intent from those that were signed off on by the committee. He said that was the case.

**SENATOR BECK** On the one you denied, if that particular individual put up the fence that you didn't want without applying for a game farm, would you challenge him in court to take that fence down because it was winter feeding grounds for your deer.

**Pat Graham** I don't know what we would have done. That exact situation happened in Wyoming, the state did sue and won.

**SENATOR BECK** There's probably some grazing happening on private ground. I have a problem in my own area right now and you're going to be aware of it about how the game come on private land. All of a sudden now, we're saying hey, that game is on public land, we can't use it. What happened to private property rights?

**Pat Graham** Governor Stephens appointed groups of interested persons to develop recommendations for those criteria that are now put in the rules. It was done in a negotiated process.

**SENATOR DEVLIN** There's an individual over in the White Sulphur Springs area that built a rather extensive fence. Are you in the process of maybe making that person take that fence down, do you have any thoughts of suing him?

**Pat Graham** No, it's on private land. I know where the fence is and no, we are not.

***{Tape : 2; Side : A; Approx. Time Counter : 5.31}***

**CHAIRMAN JABS** There's a lot of emphasis on the EA, it's expensive and time consuming. If you switch it from Fish and Game to Agriculture, will it make any difference?

**SENATOR MESAROS** Proceed with programmatic EIS, right now that function lies with FWP. That would be their responsibility to proceed with that at this time **(TURNED TAPE, TESTIMONY MISSED).**

**CHAIRMAN JABS** You think they're more efficient then, cheaper and faster.

**SENATOR MESAROS** Once the programmatic EIS is completed, that would establish a criteria framework to facilitate the processing of permits. Without going into an EIS individually.

Closing by Sponsor:

**SENATOR MESAROS** Last session they were instructed to implement this negotiating rule process. There's been frustration from some members who sat on that negotiated rule making process. They indicated there have been changes or suggested changes and they don't recognize some of the rules. There have been time delays and a better job meeting those statutory time frames has to be done.

The regulatory authority will remain with FWP for removal of game animals both prior to licensing and ingress, prosecution of game theft, fee licensure, annual inspection of exterior fencing, classification of species, address hybridization and genetic and advise Dept. of Livestock of disease transmission issues, assist DoL in development in programmatic EIS. Dept. of Livestock has licensed professional veterinarians on their staff to deal with disease issues. Fish, Wildlife & Parks will remain to fulfill the role of protecting the wildlife in the State of Montana.

The proposed regulatory transfer will not negate the hard work and effort of the caucuses involved in the negotiated rule making process. The rule making process will be transferred and utilized. There's been frustration from tax dollars being spent on the cost of all the EIS's. I point to programmatic review that will ultimately enhance better review and utilization of this industry.

This is a good faith effort to address concerns on both sides. I believe that we can give producers across the state the opportunity for diversification and have the DoL fulfill it's historic role in alternative livestock and livestock products and FWP its historic role in managing wildlife. I believe there may be some amendments forwarded.

## HEARING ON SB 384

Sponsor: **SENATOR KEN MESAROS, SD 25, CASCADE**

# MINUTES

## MONTANA SENATE
## 56th LEGISLATURE - REGULAR SESSION

## COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

**Call to Order:** By **CHAIRMAN REINY JABS**, on March 12, 1999 at 3:12 P.M., in Room 413/415 Capitol.

### ROLL CALL

**Members Present:**

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Greg Jergeson (D)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 499, 3/8/1999
Executive Action: SB 361 (Discussion)

### HEARING ON HB 499

**Sponsor:** **REPRESENTATIVE HAL HARPER, HD 52, HELENA**

**Proponents:** **Katrina Scheuerman, Montana Audubon**
**John Mundinger, Montana Stockmen, Farmers Union, Farm Bureau, Montana Grain Growers**

objections to massive use of herbicides. Prevention is the best and cheapest way to control weeds.

*{Tape : 2; Side : A; Approx. Time Counter : 4.25}*

## EXECUTIVE ACTION ON SB 361

**Doug Sternberg** passed out 36101 and 36103 amendments. The 101 amendments were attached in mid February for the purpose of a revised Fiscal Note. He wanted members to have a copy of the 101 amendments for comparison with revised amendments, 36103. EXHIBIT The 103 amendments would incorporate certain of the 101 amendments but also incorporate a number of other substantive changes to the 101 amendments. **SEE EXHIBIT(7), EXHIBIT(8).**

**SENATOR MESAROS** As introduced, the bill called for complete transfer of the main responsibility from Fish, Wildlife and Parks to the Dept. of Livestock. There were concerns with funding and the issue of the programmatic Environmental Impact Statement, along with other concerns. In reviewing this with all parties and Dept. of Livestock, there was some reservation about adequate funding and assuming all the responsibility included in the original proposal. The amendments on 101 delayed the effective date and had reference to the environmental assessment. After we adopted those, I received some other concerns. I requested we hold this over transmittal, worked with all parties, tried to regroup to see if we couldn't narrow the scope of this and yet arrive at some of the concerns.

I suggest today we remove the 36101 amendments and adopt 36103 amendments. In doing that, we're leaving the permitting and programmatic review with Fish, Wildlife and Parks. We would be transferring the record keeping and the fencing. All that is under the negotiated rule making. The exterior fencing is an issue of high concern with alternative livestock. We want someone to administer these rules to the letter of the law, no more, no less. It was felt Dept. of Livestock was more experienced in this and would more adequately address it. Dept. of Livestock has indicated they are comfortable with this move and could accurately accommodate this amount. With that, I would ask we reconsider our actions on amendments 36101.

Motion/Vote: **SEN. MESAROS** moved **RECONSIDER ACTIONS ON AMENDMENTS SB036161. Motion carried unanimously.**

Motion: **SEN. MESAROS** moved that **AMENDMENT SB036103 BE ADOPTED.**

**SENATOR MESAROS** The main changes would reduce the dual reporting and create a central depository for all livestock records and better utilize Ag's resources. Fish, Wildlife and Parks would

put out notice of any violations for licensure revocation purposes and unresolved discrepancies. Because Dept. of Livestock is already in charge of quarantine and handling facilities, it makes sense they should be responsible for the exterior fencing. We're not changing any rules in the fencing requirements.

Dept. of Livestock receives half of application and license renewal fees because they'll be involved in the Montana Environmental Policy Act (MEPA) review, fencing, record keeping and ongoing enforcement issues. Dept. of Livestock is a fees based on costs agency. The industry supports raising per capita fees to cover outstanding Dept. costs. There's also an additional increase in fees so there'll be additional funds received to cover costs the Dept. might incur in the changes. Both the industry and FWP believe the programmatic is still appropriate and we would leave that with FWP to complete. That is a brief summary of the changes.

**SENATOR BECK** You still have some functions pertaining to the environmental review and assessment to your livestock. You will have the fencing and record keeping. Your income will be one half of the fees collected pursuant to subsections one and two. How much income do you think you'll get?

**Mark Bridges, Dept. of Livestock,** $12,000.

**SENATOR BECK** Can you do this for about a third of a FTE?

**Mark Bridges,** With the increase in the per capita tax, that would triple. The per capita on game farms would have to go over $30 to cover that and the current deficit that we're operating under with the game farm.

**SENATOR BECK** What are your duties as of right now?

**Mark Bridges** We are responsible for disease control within the game farm area, the quarantine facility and alternative livestock movement identification, transportation, etc.

**SENATOR BECK** I'm concerned with trying to get you more money to pick up what you're doing here. If $12,000 is all the revenue you're going to get, you're going to have to go back into your own budget to fill your obligations to this.

**Mark Bridges,** Yes, we are, until the per capita can be increased.

**SENATOR BECK** I know **HB 2** has cut money out of their budget already. They're under a strain.

**SENATOR MESAROS** I ask Mark Taylor to go over the revenue generating schedule. My schedule reflects considerably more than that.

**Mark Taylor** With regard to the outstanding balances incurred by the Dept. and the licensing fee increases, I can supply the Committee with figures I received from Dept. of Fish, Wildlife & Parks. Roughly $9,000 was collected for renewal fees in 1997, so if you double those, it's $18,000 initially. Per FWP's records, you get roughly $6,000 in application fees, which would be $24,000 which would get you roughly to the $12,000 if you split those in half. The renewal fees are going to significantly increase throughout time as new applications come in. Under the bill, there is approximately $7,000 annually inspected to deal with the import of game animals. The industry would support whatever per capita fee increase Board of Livestock feels they need to make the Dept. whole.

**SENATOR BECK** I think it should have been in the bill. I don't want the Dept. of Livestock to get stuck with something they can't afford.

**Mark Taylor** The last thing the industry wants is to bring additional regulatory functions to the Dept. of Livestock, creating a burden that they can't take staff wise and more importantly, fiscally.

**SENATOR BECK** Can we come back with that figure before we move on these so we don't put the Dept. of Livestock in a position where they have to go into existing struggling funds.

**SENATOR MESAROS** Certainly. It was my understanding the per capita fees would be established to cover any cost to do that. That's why I was forwarding it at this time.

**SENATOR BECK** I would be much more comfortable if game farmers know exactly what the assessments are going to be and the Dept. knows exactly what they're going to get.

**SENATOR DEVLIN** I agree as far as establishing the fees in the bill. What of kind of expense do you incur over and above what you're getting fees for up to date? I'm curious where your balance sheet is in the last couple years.

**George Harris** We have about 3,061 domestic ungulates that are generating $12.00 a head. They're coming up short by our costs by $18,000 per year so we're already $36,000 in the deficit. We're going to have to raise the fees on domestic ungulates from $12.00 a head to $30.00 a head in order to cover what we're short now, plus what this bill does to us.

**SENATOR DEVLIN** What was the main reason for this $18,000 loss the last couple years?

**George Harris** The main reason was start up costs. We had to purchase a pickup. We had a game farm manager and also we had operational costs. There's been a lot of rule making and a lot of operational costs involved with the rule making. The continuing costs staying in the deficit are the $18,000 to $20,000 we are running on a deficit. The Board is going to have to increase the fee to make us whole on the deficit, and increase the fee again from $12 to $30 a head in order to run this program the way it's set up.

**SENATOR DEVLIN** I want the fee in here. I don't want to run the Dept. into debt. If they happen to hit a lawsuit or something, I don't want those of us who pay fees on livestock to support livestock, to be reassessed or have our rates go up for the benefit of someone else.

**CHAIRMAN JABS** Which board would have to raise the fees?

**George Harris** The Board of Livestock is authorized to raise that per capita fee.

**SENATOR DEVLIN** Are they limited as to how much they can raise it?

**George Harris.** By statute, we cannot increase per capita fees above 110% of the previous three year average of all fees collected by the entire Dept. There is that restriction in the law. Because there is such a small number of domestic ungulates, we can do it within the 110% quite comfortably.

**SENATOR DEVLIN** Does the Board intend to do that?

**George Harris** Yes, the Board is very concerned. They did not want this bill to come over here without us being able to fund it. They were neutral as to the policy, but their main concern was it be fiscally sound when it gets here, because we're already operating at a deficit.

**SENATOR HOLDEN** Getting out from under the thumb of Fish and Game sounds like quite an expensive proposition, $30.00 a head or more. Is there that much profit in elk to be paying that much money per head?

**Bob Spoklie** Our people have paid between $300,000 to a half million dollars in attorney fees in the last ten years just to stay in business. Mr. Harris did state some of the money spent has been start up fees. Those start up fees have already been

accomplished. We are willing to assess ourselves whatever it takes. Like he said, they would like to have another $18 on top of this. When I visited with him earlier, he said asking for up to $18 additional doesn't mean they're going to need up to $18 once the program gets up and running. They figured things on some 3,000 animals; we now have 4400 animals in the state. That's one fourth more than was stated that will be taxed. That's a considerable difference and would bring that fee down. I'm not saying we have to have it down. Our industry would sooner pay that and be regulated by an agency that's used to handling livestock ,than one that's philosophically against us continually.

**SENATOR HOLDEN** Do you have verification on tax rolls that you have the number of livestock out there?

**Bob Spoklie** We have those figures. Luella has every animal in the state on her computer.

**George Harris** The head count we use has to come from the Dept. of Revenue's actual tax rolls collected from the counties. We receive a head count number from the county from their records and it's been consistent at 3,061 the past couple years. If they go up, they go up. They might exist out there, but they're not being reported in the counties. By law, we can only charge a fee on the head count we receive from counties.

**SENATOR HOLDEN** If we transfer this out of Fish & Game, is your Dept. going to be coming down on some expenditures.

**Paul Sihler, Fish, Wildlife & Parks,** In the last five years, the Dept. has received about $36,000 to $38,000 in license application and renewal fees from the game farm industry. In that same time period, we spent over one million dollars regulating and licensing the industry. The difference between the two were things we redirected within the agency from existing programs. I would expect our costs would go down somewhat, and we would redirect those resources back into what they were doing prior to working with the game farm program.

**SENATOR BECK** If you've got a $12,000 deficit the last two years and you've had the authority to raise this fee, how come you haven't?

**Mark Bridges** The Board of Livestock has to analyze and reassess the per capita in January of every year. CI-75 passed in November. They did the analysis of per capital tax and we had to wait until CI-75 went away to address that.

**SENATOR TESTER** You said you can raise the fees 10%?

**George Harris** The statutes says no more than 110% of the prior three year average.

**SENATOR TESTER** And the fees for the last three years have been $18 a head?

**George Harris** It's been $12 a head and generated about $36,000 worth of revenue.

**SENATOR TESTER** So how come you're raising to $30 a head?

**George Harris** We're talking about the entire per capita fee for the entire Dept. This is a very small head count. The statute allows us to do it by species, currently $1.20 for cattle because you have two million cattle as opposed to three thousand domestic ungulates. The Board sets a dollar amount based upon the Fiscal Notes.

**SENATOR HALLIGAN** Since the hearing I haven't heard anything from Fish & Game Dept. on amendments with respect to their Dept.

**Paul Sihler** When you divided up the statutes in the 1995 session, you did it by expertise and interests. Fish, Wildlife and Parks interests then and now were related to theft of wild animals and affect on wild game. The central issues are the fences and record keeping. You have fencing requirements in the game farm statutes because of wildlife; what's inside and outside the fence looks pretty much the same unless you can see a tag. Our concern is in maintaining those fences to prevent ingress and egress and in being able to address and prosecute theft of wildlife, which we have done.

We prosecute theft of wildlife based on the record keeping. This bill moves responsibility for the record keeping and fences over to Dept. of Livestock. In effect, that places the responsibility for enforcement and revoking game farm licenses with Dept. of Fish, Wildlife & Parks, but places all the information by which you have to do that in Dept. of Livestock. This creates an additional barrier and hurdle for effective regulation and our ability to enforce either theft or deal with ingress or egress problems. There are a couple of other things that are problems for us in this bill, but that's the principal thing.

Section 24, subsection 6, requires FWP to pay attorney fees for anyone who successfully appeals a decision by the Dept. It's not an even playing field where if they're not successful in their appeal, they pay our attorney fees. By our calculations, our revenues are reduced under this bill and our costs are increased with the programmatic environmental impact statement, which Dept. of Livestock estimated was $200,000.

**SENATOR HALLIGAN** I ask Mr. Taylor to address the issues associated with the record keeping and enforcement. Is that the way you envisioned this working?

**Mark Taylor** We're transferring reports, record keeping and fencing to Dept. of Livestock. Dept. of Livestock currently has all the records dealing with inspection, importation permits, and animal tracking, so they already have the records dealing with on hands involvement with the animals. The only additional thing we would be putting on Dept. of Livestock is a report that's filed January 1 and July 1 of each year. Tracking numbers and that type of thing are the primary portions of that report. To send them to FWP when DoL has all the information is a duplication of services. If record keeping is transferred to DoL, any violations of the record keeping would be reported to FWP for licensure revocation purposes. That would be in the form of a letter so FWP could initiate their proceedings pursuant to their statutorial authority. Discrepancies in animal numbers is currently the means by which FWP initiates unlawful capture investigations. If DoL currently has access to animal numbers and is the agency already administering movement of animal records, they're going to be the agency most knowledgeable in dealing with discrepancies. It's mandatory reporting to FWP so they can initiate their investigations.

When we went through the negotiated rule making process, we looked at the fencing issue. It's my understanding that the industry drafted the fencing requirements. Nobody wants their animals to get out and we have drafted the best set of fencing rules in the country from the industry's perspective. There's not been one documented case of an elk getting out of fencing standards unless a gate was left open or there's been vandalism. The rules regarding the current fencing standards would be transferred to DoL. A lot of the environmental reviews done recently which discussed the exterior fencing issue levy addition site specific stipulations dealing with disease control issues. If they're looking at involving the exterior fencing with disease control issues, who better to administer or be responsible than DoL. With DoL being regularly on alternative livestock ranches to deal with quarantine or handling of animals, it makes sense those individuals also be able to inspect the exterior fences.

**SENATOR HALLIGAN** Clarify who is doing what record keeping so I can get a good understanding.

***{Tape : 2; Side : A; Approx. Time Counter : 5.18}***

**Paul Sihler** Dept. of Livestock requires transportation permits and they get those through the year when the animals are moved around. The statute requires the licensee currently submit a

report to the Dept. at least twice a year and up to three times a year. FWP takes those reports and compares with the records from DoL to track animal numbers.

Mr. Sihler read from the bill. "DoL shall report any violations of this section or unresolved discrepancies in the records to Dept. of Fish, Wildlife & Parks." "If requested, the total number of alternative livestock on an alternative livestock ranch shall be made available to the Dept." We can't prosecute a theft on that basis. We need information about the individual animal and where it has gone. We have cases where an animal with the same tab number has gone different places at different times and it couldn't be the same animal. That's the basis by which we prosecute thefts. Under this requirement, the only thing they could give us is the total number of game animals. There were 96 animals on that game farm. That doesn't give us the information we need in order to determine whether the records are accurate and certainly doesn't give us the information we need to prosecute a theft.

The last stipulations we put on game farm fencing were in the Flathead area where there are shooter operations. They are in Class 1 grizzly bear habitat. There are black bear and wolves in the area and the concern has been predators getting into the game farm that has a shooting operation with gut piles. That's where we have actually had several appeals in the last couple weeks. That's been the issue on fencing.

**SENATOR HOLDEN** If an elk gets out of the pasture, will that elk come back to hay?

**Bob Spoklie** The history in the last 15 years has been the animal never leaves. 99% have gone out through an open gate and 99% have come back through the same gate.

**SENATOR HOLDEN** Is that because they are hooked on the feed base?

**Bob Spoklie** It's because they are domesticated and they don't want to leave the herd.

**SENATOR DEVLIN** Is there some other way to get rid of this rift in this bill? Can you get your heads together with Dept. of Livestock?

**Paul Sihler** There's no problem with getting our heads together with Dept. of Livestock. Based on some information and letters the Governor has received and based in part in the original hearing on this bill, the two agency directors and the Governor

did meet to talk about this. The Governor and both directors acknowledged there were some legitimate issues here, but it seemed to them the majority of the issues were management issues and not something legislation would fix. The two directors and the Governor talked about having an independent third party consultant do a review of the game farm program, look at how things are working between the two agencies, how the MEPA process is being evaluated, and review what's working, what's not working and why and use that as a vehicle to address those problems. We think a programmatic environmental impact statement is a good idea. It would reduce the time in the licensing and permitting for a portion of the licensees.

**SENATOR DEVLIN** Would the Game Farm Advisory Council be involved in this any way?

**Paul Sihler** The Game Farm Advisory Committee Council has not been very active because the negotiated rule making process is going on. I expect the Game Farm Advisory Committee Council will come back into play with the negotiated rule making now over. It seems to me that would be an appropriate entity to involve in that process.

**SENATOR DEVLIN** If we don't do something and you get your heads together during the interim, if you don't come to some sort of a better agreement than what you've got now, it's Katie bar the door. It would behoove everybody involved to get this worked out as soon as possible.

**SENATOR NELSON** Since we already have this Game Farm Advisory group, it just seems crazy to be thinking about having another group. Can't this Game Farm Advisory group handle it and be an intermediary between Dept. of Livestock, Fish, Wildlife & Parks and the game farms?

**Paul Sihler** You're correct in that there's a role for the Advisory Council to play. I'd point out the Advisory Council is all donated time. They're private citizens donating their time and I suggest there's a level of detail and analysis, assessment, work and review they don't have the time to do themselves. That might be an appropriate body to serve as a policy body in reviewing the work that a third party finds in doing an independent review. There's a level of staff work that probably appropriately needs to be done to do this effectively. I'm not sure the Advisory members themselves can do that and I'm not sure it's effective for the two departments.

**SENATOR MESAROS** There's been problems for years. A lot is on the fencing. All of a sudden there's discussion of bringing an

independent third party in only because, I'm believe, there's some legislation directed at it. I think it might be a positive step, but there are no guarantees of that happening. The negotiated rules are in place and explain exactly how the fence is to be constructed. Many times, the alternative livestock producers have to hire an attorney just to enforce the fencing requirements interpreted by Fish, Wildlife & Parks. This is just an attempt to have a Dept. enforce the fencing requirements as it is to the letter of the law, no more, no less.

I'm very sensitive to adequate funding for this. It's written right in the bill, the Dept. shall establish fees as authorized commensurate with cost as provided in that section. You've heard alternative livestock indicate they're willing to pay whatever fees. They've doubled the renewal fee and doubled the initial license, annual renewal fee from $100 to $200 and gone through and imposed a lot of increase in fees under section 12 to address this. I think the alternative livestock people are committed to paying this. That's a good faith effort to try to accommodate that.

**SENATOR JERGESON** With the adoption of these amendments, I assume a new Fiscal Note will be generated. The Fiscal Note has to cover what fees would be necessary to cover the regulatory scheme that is in here plus recover the deficit. This area is fraught with lawsuit potential. We'd need a Fiscal Note to identify how either or both Depts. are going to deal with the costs of real potentials for lawsuits that may or may not be won by a Dept.

**SENATOR MESAROS** The amendments would have to be put on before another Fiscal Note could be produced.

Vote: Motion **carried unanimously.**